Supreme Court, U. S.
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APPENDIX
Volume I – Pages 1-260

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-201

CITY OF RICHMOND, VIRGINIA,

Appellant,

v.

UNITED STATES OF AMERICA and
WILLIAM B. SAXBE, ATTORNEY GENERAL, and
CURTIS HOLT, SR. *et al.* and
CRUSADE FOR VOTERS OF RICHMOND, *et al.*,

Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JURISDICTIONAL STATEMENT FILED AUGUST 29, 1974

JURISDICTION NOTED DECEMBER 16, 1974

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Chronological List of Relevant Docket Entries

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Aug. 25, Complaint, appearance; Ex. A thru E; Request for Third-Judge Court, filed.

Aug. 25, Summons, Copies (2) and Copies (2) of Complaint issued D.A. & Atty. Gen. Ser. 8/28/72.

Sep. 11, Motion of Curtis Holt, Sr. for himself and on behalf of all other similarly situated for leave to intervene as a defts. exhibit memorandum c/m 9/8 M.C. Appearance of W.H.C. Venable, (422 East Main St., Richmond, Va. 23219. $5.00 deposit by Venable).

Sep. 14, Order extending time for plaintiff and defendants to reply to petition for leave to intervene to September 25, 1972. (N) Richey J.

Sep. 14, Motion of plaintiff to extend time to reply to petition for leave to intervene; P & A; c/m 9-14.

Sep. 14, Application of plaintiff for Three Judge Court; c/m 9-14.

Sep. 25, Response of the United States to motion to intervene; c/m 9-25-72.

Sep. 25, Memorandum of plaintiff in opposition to petition of Curtis Holt for leave to intervene; table of cases and authorities; P & A; c/m 9-25.

Sep. 25, Request by plaintiff for oral hearing on motion for leave to intervene.

Oct. 3, Application for Three Judge Court granted. (N) (Signed 10-2-72) Green.

Oct. 6, Designation of the Honorable J. Skelly Wright, U.S.C.A. and the Honorable William B. Jones, U.S.D.C.

to serve with the Honorable June L. Green as members of a three-judge panel to hear and determine this case. (N) Bazelon, C.J.

Oct. 6, Motion of Curtis Holt, Sr. to amend petition to intervene; exhibit; c/m 9-8-72 M.C.

Oct. 6, Motion of Curtis Holt, Sr. to proceed in Forma Pauperis; affidavit c/m 9-18-72 M.C.

Oct. 6, Reply of pltf Curtis Holt, Sr. to pltfs memorandum in opposition to petition to intervene; c/m 9-28-72.

Oct. 10, Memorandum of plaintiff in opposition to amended petition of Curtis Holt, Sr. for leave to intervene; table of contents; table of cases and authorities; c/m 10-10.

Oct. 17, Letter dated 9-28-72 entering the appearance of Josph D. Tydings and Michael E. Kris at 1120 Conn. Ave., N.W. as counsel for petitioner-intervenors.

Oct. 18, Petition of Crusade for Voters of Richmond, Virginia, Dr. William S. Thornton Dr. M. Philmore Howlette, for leave to intervene as defts. P&A; Attachment Exhibits (2); c/m 10-18-72; M.C.

Oct. 18, Deposit $5.00 by Derfner.

Oct. 18, Appearance of Armand Derfner, counsel for above interveners.

Oct. 18, Order granting the petition of Curtis Holt, Sr. Leave to intervene as deft. and permitting him to file in Forma Pauperis. (N) Wright, J. Jones, J. Green.

Oct. 27, Answer of defendants to complaint; exhibit A; c/m 10-27. Appearance of Robert R. Rush, Gerald W. Jones, Department of Justice.

Oct. 27, Calendared (CD/N).

Oct. 27, Motion of defendants to dismiss; P & A; c/m 10-27. M.C.

Oct. 27, Response of defendant USA to motion to intervene; c/m 10-27.

Nov. 8, Order granting petition of the Crusade Voters of Richmond, et al, to intervene. (N) (Signed 11-6-72) Wright, Jones & Green, J.

Nov. 9, Opposition of plaintiff to motion to dismiss; c/m 11-9.

Nov. 9, Motion of plaintiff for leave to file amendment to complaint; exhibit A; P & A; c/m 11-9. M.C.

Nov. 15, Withdrawal of Crusade Intervenors' motion to dismiss, as per counsel; c/m 11-14.

Nov. 16, Response of defendants to plaintiffs motion to amend complaint; c/m 11-16.

Nov. 17, Order denying defendants motion to dismiss; granting plaintiffs motion to amend the complaint. (N) Green, J.

Nov. 30, Appearance of James P. Parker as counsel for intervenors.

Dec. 4, Amended complaint; c/m 11-9.

Dec. 4, Answer of defendants to plaintiffs amended complaint; c/m 12-4.

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Jan. 26, Answer of deft. Intervenors Crusade For Voters, et al. to pltfs. first amendment to complaint. c/m 1/23/73.

Feb. 9, Stipulation for extension of time for pltf. to respond to defts. intervenor's interrogatories to and including 3/29/73. (fiat) (N) Green, J.

Feb. 12, Request of pltf. for admissions of facts; appendix A & B. c/m 2/9.

Mar. 5, Second set of interrogatories of Intervenors to pltff. c/m 3/2.

Mar. 8, Calendar Call. (Rep: E.O. Wells) Green, J.

Mar. 9, Order directing that all discovery be completed by 4/6/73 and setting forth further instructions to all parties. (N) Green, J.

Mar. 9, Motion for leave to dispense with printing of juridictional statement attachments filed. Green, J.

Mar. 12, Answer of deft. Intervenor, Crusade for Voters to pltf's request for admission of facts. c/m 3/9.

Mar. 12, Notice of deft. Intervenor to take deposition of William Leightinger Dallas Oslin. c/m 3/8.

Mar. 12, Answer of intervenor, Curtis Holt to pltfs request for admission of facts. c/m 3/9.

March 14, Answer of defts. 1 and 2 to pltf's request for admission of facts. c/m 3/14.

Mar. 16, Transcript of proceedings – 3-8-73. (Rep: Elaine Wells) (Court's Copy).

Mar. 19, Interrogatories of intervenors Curtis Holt, Sr., et al to pltfs. c/m 3/19.

Mar. 29, Answers and responses of pltf to deft-Intervenors' interrogatories. c/m 3/23.

Mar. 30, Notice of deft Intervenors Curtis Holt, et al to take depositions of William Leightinger, George Talcott, Conard Mattox, Henry Valentine, Thomas Bliley, Leonard L. Wharton, Robert T. Fary and A. Howard Todd. c/m 3/28/73.

Apr. 6, Answer of pltf and responses to deft Intervenor Crusade for Voters interrogatories. c/m 4/5/73.

Apr. 6, Answer of pltf and responses to interrogatories of deft intervenor Curtis Holt, Sr. c/m 4/5/73.

Apr. 6, Motion of Donald O. Sutton, for leave to intervene as a pltf. exhibits K-1; K-2; K-3; K-4; K-5; K-6; K-7. M.C. Appearance of Donald O. Sutton, 2316 Royall Ave., Richmond, Va. 23224 in proper person: Deposit $5.00 by Sutton.

Apr. 13, Certificate of service of mailing copy of motion to intervene by Donald O. Sutton on 4-10-73 to all parties of record; exhibit K-8 attached.

*Apr. 20, Response of U.S.A. to motion to intervene by Donald O. Sutton; c/m 4/20/73.

*Apr. 19, Order denying petition of Donald O. Sutton for leave to intervene as a party pltf. (N) Green, J.

Apr. 23, Deposition of William J. Leidinger for the deft. Intervenors, Crusade For Voters of Richmond, et al. Published and filed.

Apr. 23, Depostion of Dallas H. Oslin for the deft. Intervenors, Crusade For Voters of Richmond, et al. Published and filed.

Apr. 24, Opposition of pltf to motion to intervene by Donald O. Sutton; P & A. c/m 4/24/73.

Apr. 25, Stipulation, filed. (N) Wright, J., Jones, J., Green, J.

Apr. 26, Response of Curtis Holt, Sr., et al to motion to intervene of Donald O. Sutton; c/m 4/24/73.

Apr. 26, Stipulation, filed.

Apr. 26, Order amending Court's Order of March 9, 1973 extending the May 1, 1973, deadline to June 15, 1973. (N) (signed 4/25/73) Green, J.

Apr. 27, Motion of deft. intervenors to compel answers to interrogatories; memorandum; c/m 4/25/73 M.C.

May 2, Opposition of pltf to motion to compel answers to interrogatories; P & A; c/m 5/2/73.

May 7, Order directing pltf. within 15 days from entry of this Order make full and complete answers to deft-intervenor's interrogatories. Green, J.

May 15, Proposed findings of fact and conclusions of law by defts. Holt et al, 5-15.

May 15, Proposed findings of fact and conclusions of law by pltf. c/m 5-15.

May 15, Motion of pltf. to consider consent judgment; exhibit A; P & A; attachment c/m 5-8.

May 16, Proposed findings of fact and conclusions of law by defts; exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12; c/m 5/15/73.

May 17, Depositions of William J. Leidinger, Leonard Lee Wharton, Robert T. Fary, Conrad B. Mattox, Jr. and George Talcott published and filed.

May 17, Depositions of Henry Lee Valentine II, Mayor Thomas J. Bliley, Jr. and A. Howe Todd published and filed.

May 18, Supplemental memorandum of P & A; by pltf. exhibits A, B, C and D. c/m 5/18/73.

May 22, Copies of pages of transcript referred to in defts proposed findings of fact and conclusions of law.

May 24, Answer of pltf and responses to interrogatories of Intervenor Curtis Holt., Sr. attachment; c/m 5/22/73.

May 30, Objections of deft. intervenors to consideration of entry to consent judgment proposed by pltf. c/m 5-30-73.

Jun. 4, Motion of intervenor Holt for sanctions for failure to respond to order for discovery. c/m 5-31-73; M.C.

Jun. 4, Further answer of pltf. and response to interrogatory 13; attachment; c/m 6-1-73.

Jun. 6, Motion of James W. Benton, Jr. for withdrawal of appearance. c/m 6-5-73 M.C.

Jun. 7, Reply of pltf. to intervenor's objection to consideration of consent judgment; and motion of pltf. for relief under Rule 54 F.R.C. v P. Affidavit of Conrad B. Mattox; Statement; c/m 6-7-73. M.C.

Jun. 11, Further answer of pltf. and response to interrogatory 13 of Intervenor Holt; attachment; c/m 6-8-73.

**June 12,

June 15, Answer of deft #3 to interrogatory; c/m 6/14/73. Error

June 15, Memorandum of law by pltf.; c/m 6/15/73.

June 15, List of witnesses by pltf.; c/m 6/15/73.

June 15, Memorandum of law by intervenors Curtis Holt. et al; exhibit; c/m 6/15/73.

June 15, List of witnesses by intervenors Holt; c/m 6/15/73 and exhibit C.

June 18, Pretrial brief by deft; c/m 6/15/73.

**June 12, Order directing the parties on or before July 2, 1973 to file legal memoranda addressing certain questions. (N) Green, J.

July 2, MOTION of Intervenor Crusade for Voters of Richmond for dismissal; Pretrial memorandum; Ex. A,B,C,D; c/m 7-2-73.

July 2, LEGAL memorandum of pltf; c/m 7-2-73.

July 2, MEMORANDUM of law by defts.; c/m 7-2-73.

July 5, MOTION of deft. intervenors Curtis Holt for summary judgment; c/m 7/2/73.

July 5, MOTION of deft. intervenors Curtis Holt for dismissal and relief; c/m 7/2/73.

July 5, SUPPLEMENTAL memorandum of newly discovered evidence in support of objections to consideration of consent judgment; affidavits (2) c/m 7/2/73.

July 5, LEGAL memorandum in response to order of 6/11/73; c/m 7/2/73.

July 10, LETTER dated 7/3/73 to Judges Wright, Green and Jones from Mr. Venable; attachments (2).

July 12, OBJECTIONS by pltff. to motions of intervenors to dismiss and for summary judgment and renewal of pltffs. motions to amend complaint and for summary judgment.

July 19, SUBMISSION of Ward Plans by defts – intervenor Crusade for voters of Richmond; maps n, o and p; c/m 6/19/73.

July 20, STATEMENT by deft. in opposition to intervenors motions to dismiss and summary judgment; c/m 7/20/73.

July 24, CERTIFIED copy order USDC for Eastern District of Virginia, Richmond division, transferring the complete record to this court. Received 5 boxes and 1 roll of maps and charts. See memo attached.

July 24, TRANSCRIPT of proceedings 7/23/73 Elaine Wells Rep. Court's copy.

July 24, ORDER denying pltfs. motion for summary judgment; denying the oral motion of a November 1973 election of the city council; denying deft-intervenor Holt's motions to dismiss or for summary judgment and for sanctions; granting James Benton's motion to withdraw. (N) (signed 7-23-73) Green, J.

Aug. 7, OBJECTIONS of deft. intervenors, Holt, et al to order of 7-23-73; c/m 8-3-73.

Aug. 14, ORDER overruling objections of deft-intervenors, Curtis Holt, Sr., et al to the referral of this case to a master. (N) Wright, J. (USCA) Jones, J.

Sept. 11, OBJECTION of deft. Intervenor, Curtis Holt, Sr., et al to additional witnesses and exhibits being introduced or considered beyond the provisions of the former Orders of the Court; P&A. c/m 9-6.

Sept. 17, MEMORANDUM of Intervenors, Holt briefly outlining position regarding scope of issue before Magistrate and Law controlling resolution of that issue. c/m 9-13.

Sept. 17, ORDER overruling deft. intervenor Curtis Holt, Sr., et al's objections to additional witnesses and evidence being introduced. (N) Magistrate Margolis.

Sept. 18, MOTION of deft-Intervenors, Curtis Holt, Sr., et al to postpone the Master's hearing set for 9-24-73, to allow discovery and to clarify its order dated 7-23-73. affidavit. c/m 9-17.

Oct. 1, NOTICES (3) to take depositions of witnesses by intervenor deft. Curtis Holt; c/m 9-27-73.

Oct. 10, DEPOSITIONS of Mayor Thomas J. Bliley, Jr. and Dr. William S. Thornton published and filed.

Oct. 10, DEPOSITION of A. Howe Todd published and filed.

Oct. 15, TRIAL begun Oct. 15, 1973 at 10:05 a.m. and respited until 9:00 a.m. 10-16-73. (Reps: J. Lazurus, L. Lacy) Margolis, Mag.

Oct. 16, TRIAL begun 9:30 a.m. 10-16-73 and respited until 10-17-73 at 9:30 a.m. (Rep: B. Trivisani) Margolis, Mag.

Oct. 17, TRIAL begun at 9:30 a.m. and concluded 10-17-73. Taken under advisement. (Rep: R. Reilly) Margolis, Mag.

Nov. 7, TRANSCRIPT of proceedings, October 15, 1973; pp 1 thru 257; (Rep: Elizabeth Lacy) Court's Copy.

Nov. 7, TRANSCRIPT of proceedings, October 16, 1973; 260 thru 380; (Rep: Brenda Trivisani) Court's Copy.

Nov. 7, TRANSCRIPT of proceedings, Afternoon session, October 16, 1973: pp 381-568; (Rep: Brenda Trivisani) Court's Copy.

Nov. 7, TRANSCRIPT of proceedings, October 17, 1973; pp 570 thru 737. (Rep: Robert A. Reilly) Court's Copy.

Dec. 11, TRANSCRIPT of Proceedings of Sept. 26, 1973, pages 1-45. Rep: J&K Reporting Service; Court's copy.

Dec. 17, OPPOSITION of Curtis Holts, Sr. to consideration of deposition of William S. Thornton; c/m–

Dec. 19, ORAL arguments began at 2:10 p.m. 12-19-73; arguments concluded and taken under advisement. (Rep: J. Lazarus) Margolis, Mag.

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Jan 17, TRANSCRIPT OF PROCEEDINGS of Dec. 19, 1973, pages 1-53. (Rep: J. Lazarus) Court copy.

Jan. 21, FINDINGS of facts and conclusions of law. Margolis, Mag.

Jan 31, MOTION by defts. for modification of Master's Report; objections; c/m 1-31-74.

Jan. 31, MOTION by pltf. City of Richmond, to reject the Findings of Fact and Conclusions of Law; P&A's.

Jan. 31, OBJECTIONS by pltf. City of Richmond to the Findings of Fact and Conclusions of Law of the Master; c/m 1-31-74.

Jan. 31, MOTION to extend time for serving objections to the Report of the Special Master; c/s 1-30-74.

Jan. 31, ORDER granting deft.-intervenor, Crusade Voters of Richmond, until 2-4-74 to file objections to the Report of the Special Master. (N) Green, J.

Feb. 4, OBJECTIONS by deft.-intervenors, Crusade for Voters, et al, to Report of the Special Master; c/m 2-4-74.

Feb. 6, MOTION by deft.-intervenors, Crusade for Voters of Richmond, for modification of Master's Report; and for immediate payment of costs of hearing before special master; c/m 2-5-74.

Feb. 8, ORDER extending time for pltff to file a response to the Master's Report until 2-13-74. (N) Green, J.

Feb. 11, OPPOSITION of pltff to intervenor Crusade's motion for immediate payment of costs; c/m 2-11-74.

Feb. 13, MOTION by deft.-intervenors to adopt and approve the Report of the Special Master and to deny various objections and related motions to vacate or reject; c/m 2-12-74.

Feb. 13, REPLY to objections filed to Master's findings and conclusions; c/m 2-12.

Feb. 15, OPPOSITION by pltf. to motion of intervenor Holt to strike; c/m 2-15-74.

Feb. 25, PAGES 1 through 4 of deft.-intervenor's reply to objections filed to Master's findings and conclusions substituted, approved. (FIAT) Green, J.

Mar. 20, HEARING begun and concluded and taken under advisement. (Rep: E. Wells) Wright, J., USCA, Jones, J., USDC, Green, J., USDC.

Mar. 20, COPY of optinion filed 3-15-74. (Beers vs. U.S.A. C.A. 1495-73)

Apr. 9, TRANSCRIPT OF PROCEEDINGS of March 20, 1974, pages 1-55. (Rep: E. Wells); Court copy.

May 14, CERTIFIED copy of abstract of votes in the City of Petersburg, Va. Copies mailed to Judge Skelly Wright, Judge June Green, and Judge William B. Jones.

May 29, APPLICATION by pltfs for declaratory judgment is denied. Wright, J., Jones, J., Green, J.

June 6, JUDGMENT denying pltfs. application for a declaratory judgment. (N) Wright, J. USCA, Jones, J. USDC, Green, J. USDC.

Jun. 19, MOTION by pltf. to rescind and vacate and stay entry of final order; P&A's; exhibit A; c/m 6-19-74.

July 2, MOTION by deft. intervenor Curtis Holt, Sr., et al, for attorney's fee memorandum; c/m 7-2-74; attachment.

July 2, RESPONSE and motion by deft.-intervenors, to pltfs. motion to rescind vacate and stay final Order of June 6, 1974; memorandum of law; c/m 7-2-74.

Jul. 2, ORDER denying pltfs. motion to rescind, vacate and stay entry of final order. (N) Green, J.

Jul. 5, SUPPORTIVE vouchers and itemized time logs by deft.

Jul. 5, OPPOSITION by deft.-intervenors to pltfs. motion to rescind and vacate order; c/m 7-3-74.

Jul. 15, MEMORANDUM by pltf. in opposition to deft.-intervenor Curtis Holt, Sr.'s motion for attorney's fees; attachments (5); exhibit A,B-1, B-2; attachments (4); c/m 7-15-74.

Jul. 15, NOTICE of appeal by pltf. to the Supreme Court of the United States from Judgment of June 6, 1974; c/m 7-15-74. Deposit $5.00 by Charles S. Rhyne and credited to United States.

Jul. 22, NOTICE by pltf. to take deposition of Curtis Holt, Sr.; c/m 7-19-74.

Jul. 22, REQUEST by pltf. to produce; c/m 7-19-74.

Jul. 22, NOTICE by pltf. to take deposition of W.H.C. Venable; exhibit A; c/m 7-19.

Jul. 22, NOTICE by pltf. to take deposition of John M. McCarthy; exhihit A; c/m 7-19-74.

Jul. 22, NOTICE by pltf. to take deposition of Thomas F. Coates, III; exhibit A; c/m 7-19-74.

Jul. 22, NOTICE by pltf. to take deposition of J. Hatcher Johnson; exhibit A; c/m 7-19-74.

Jul. 22, NOTICE by pltf. to take deposition of E. G. Allen, Jr.; exhibit A; c/m 7-19-74.

Jul. 29, RESPONSE by defts. to memorandum in opposition to deft.-intervenors motion for attorneys' fees; c/m 7-25-74.

Aug. 1, AMENDED certificate of service by pltf. filed on July 15, 1974.

Aug. 1, MOTION by pltf. to quash; brief; c/m 8-1-74.

Oct. 2, MOTION by deft.-intervenors, Crusade for Voters of Richmond, et al for attorney's fees; memorandum; Appendix A; c/m 10-1-74.

Oct. 11, MOTION by pltf. for extension of time to file a response to intervenor, Crusade for Voter's motion for fees; c/m 10-11-74.

Oct. 16, ORDER granting pltf. an extension of time to file a response to deft.-intervenor's Crusade for Voters of Richmond's motion for attorneys' fees until 10-25-74. (N) Wright, J. USCA, Jones, J. USDC, Green, J. USDC.

Oct. 25, MEMORANDUM by pltf. in opposition to deft.-intervenor, Crusade for Voters of Richmond, motion for attorney's fees; c/m 10-25-74. Appearance of David M. Dixon.

Oct. 30, ORDER holding in abeyance the issue of attorney's fees until decision by U.S. Supreme Court. (N) Green, J.

Dec. 19, CERTIFIED copy of ORDER U.S. Supreme Court noting probable jurisdiction.

Dec. 19, MOTION by deft.-intervenor, Curtis Holt, Sr., for clarification of Order dated July 23, 1973; attachment; c/m 12-17-74.

Dec. 27, OPPOSITION by pltf. to motion by intervenor Holt for clarification of order dated July 23, 1973; c/m 12-24-74.

Original Complaint for Declaratory Judgment, Filed August 25, 1972, with Exhibits

CITY OF RICHMOND, VIRGINIA
City Hall
Richmond, Virginia 23219,

Plaintiff,

v.

UNITED STATES OF AMERICA

and

RICHARD G. KLEINDIENST,
Attorney General of the United
States, individually and in his
official capacity
Department of Justice
Washington, D.C.,

Defendants

COMPLAINT FOR DECLARATORY JUDGEMENT UNDER VOTING RIGHTS ACT

1. This Court has jurisdiction over this action by virtue of Section 5 of the Voting Rights Act of 1965, as amended, 79 Stat. 439; 42 U.S.C. §1973c.

2. Plaintiff is a political subdivision of the Commonwealth of Virginia with respect to which the provisions of said section are in effect.

3. The plaintiff's corporate boundaries were enlarged on January 1, 1970, by a decree of a special annexation court in Chesterfield County acting pursuant to the provision of Title 15.1, Chapter 25 of the Code of Virginia of 1950, as amended. By virtue of said decree of the annexation court consisting of three circuit judges in accordance with the aforesaid annexation statutes, approximately 23 square miles of land area adjacent to the City, located in Chesterfield County, was added to the City of Richmond. The pre-annexation population of the City as of 1970 was 202,359 of which 104,207 were non-white and 98,152 were white persons. The annexation added to the City, according to the 1970 United States Census figures, 47,262 people, of which 1,557 were non-white and 45,705 were white persons. The population as of 1968 of Chesterfield County prior to annexation was 102,633 white and 9,845 non-white persons.

4. In Virginia cities are independent and not a part of the county or counties surrounding them and their boundaries may be changed only by judicial decree in accordance with the aforesaid annexation statutes or by consolidation after a majority of those voting in a referendum in each political subdivision have separately agreed thereto. The history of this boundary expansion began prior to 1959 when the plaintiff found itself in the position of needing more land for development and more revenue to finance the ever growing demand for municipal services. During this time various studies and surveys were made and discussions held with representatives of the governing bodies of Henrico County which adjoins Plaintiff generally to the east, north and west, and Chesterfield County which adjoins Plaintiff generally to the south. As a result of early discussions, the Plaintiff

and Henrico County entered into negotiations seeking the consolidation of the two political subdivisions under the provisions of Title 15.1, Chapter 26, of the Code of Virginia of 1950, as amended. Such negotiations began in September 1960, and culminated in an agreement between the two governing bodies approximately one year later. Thereafter, said agreement was submitted on December 12, 1961, to referendum in both political subdivisions in accordance with law. The voters of the Plaintiff City approved the consolidation plan, the said plan, however, was defeated because a majority of the voters in Henrico County disapproved the plan.

5. Promptly thereafter, on December 26, 1961, the City Council of Plaintiff, in accordance with the provisions of the Virginia annexation statutues, adopted two annexation ordinances requesting the convening of a three judge annexation court and seeking from said court the annexation of approximately 150 square miles of Henrico County and approximately 51 square miles of Chesterfield County, respectively. After numerous delays in pretrial procedures, including proceedings in the Supreme Court of Appeals of Virginia, the annexation suit against Henrico County began trial in June, 1963. The final result of the case was a decree awarding to the Plaintiff by the annexation court of approximately 16 square miles of land area of Henrico County which contained approximately 42,690 white persons and 660 non-white persons with financial obligations imposed upon the City, pursuant to the power of the court conferred by the annexation statutes, of approximately $55 million. City Council, in March, 1965, concluded by ordinance that it was not in the best interests of the City to accept the annexation award and, with the consent of the Court, the Henrico case was dismissed.

6. Thereafter, the annexation suit against Chesterfield County, which had been allowed to remain dormant on the docket of the Circuit Court of Chesterfield County pending the proceedings in the Henrico County suit, were brought on for hearing and, as a result of a jurisdictional plea, the case was dismissed by the annexation court. After appeal by Plaintiff City, the Supreme Court of Appeals of Virginia reversed and reinstated the case for trial. The case came on for trial in September 1968, and at a time when the evidence was nearly complete in January 1969, a mistrial was declared as a result of the local judge disqualifying himself, necessitating the appointment of a new judge and a retrial of the whole case, which began anew in May, and continued through June of 1969. By final order of the annexation court of July 12, 1969, the award of the territory of Chesterfield County hereinabove mentioned was decreed. Appeals were instituted by numerous intervenors from Chesterfield County which were denied by the Supreme Court of Appeals of Virginia. Thereafter, a motion for stay of the effective date of annexation fixed by the Virginia statutes, to-wit, January 1, 1970, and a petition for certiorari were filed by said intervenors in the Supreme Court of the United States. The motion for stay was denied separately by Justices Douglas, Marshall and Brennan, prior to January 1, 1970, the effective date of annexation. On April 20, 1970, the petition for certiorari was denied by the court.

7. On January 1, 1970, Plaintiff, pursuant to the annexation decree, took jurisdiction over the area awarded to it from Chesterfield County by said annexation court in accordance with the provisions of the annexation statutues, (*supra*), and has continued to operate, manage and supervise the area since that date.

8. On January 28, 1971, after the decision of the United States Supreme Court in *Perkins* v. *Mathews*, 400 U. S. 379 (1971), Plaintiff submitted the change resulting from the annexation decree by letter from Conard B. Mattox, Jr., City Attorney, to the Attorney General of the United States in accordance with the alternative provisions of Section 5 of the Voting Rights Act of 1965. The Attorney General interposed an objection by letter to Conard B. Mattox, Jr., City Attorney, dated May 7, 1971. Copies of said letters are hereto attached and marked Exhibits A & B, respectively. Thereafter, the Attorney General was asked by letter from the City Attorney dated August 2, 1971, to reconsider his objection since *Chavis* v. *Whitcomb*, 305 F. Supp. 1364 (1969), which he relied on in his letter of May 7, 1971, had been overruled by the Supreme Court in 403 U. S. 124 1972. By letter of September 20, 1971, the Attorney General refused again to lift his objection. Copies of said letters are filed herewith as Exhibits C and D, respectively.

9. On February 24, 1971, a class action was instituted in the United States District Court for the Eastern District of Virginia, Richmond Division, in the name of Curtis Holt, Sr., alleging primarily that the voting rights of the plaintiff's class guaranteed by the 15th Amendment had been violated by the Chesterfield annexation. The aforesaid District Court, on November 23, 1971, ruled that voting rights guaranteed by the 15th Amendment had been violated and ordered a new election of city councilmen with (7) being elected at large by the former City residents and (2) being elected at large primarily from the newly annexed area. This election order was stayed on December 6, 1971, by the United

States Court of Appeals for the Fourth Circuit. Plaintiff's class and defendant City both appealed the decision to the United States Court of Appeals for the Fourth Circuit. That court, after a hearing, held on May 3, 1972, that valid reasons existed for the annexation and that the 15th Amendment had not been violated and thus overruled the lower court's decision. Plaintiff's class then applied for a Writ of Certiorari to the Supreme Court of the United States which was denied by said Court on June 26, 1972.

10. After the writ was denied the City Attorney, by letter dated Junly 5, 1972, again asked the United States Attorney General to reconsider his objection. To date no answer has been received. Copy of this letter is attached as Exhibit E.

11. On December 9, 1971, there was instituted in the United States District Court for the Eastern District of Virginia another class action in the name of Curtis Holt, Sr. (Case Number C.A. 695-71-R) alleging *inter alia* that the Plaintiff had not complied with Section 5 of the Voting Rights Act of 1965, and that, accordingly the annexation of territory from Chesterfield County was invalid. A three-judge court was convened pursuant to §2284, Title 28 U.S.C. The plaintiff Holt in that action subsequently sought an injunction against the election officials of the City of Richmond to restrain them from holding the election for City Council members scheduled under Virginia law for the first Tuesday in May 1972. After a hearing, the three-judge District Court refused to enjoin the election, but upon application to the Chief Justice of the United States, the Supreme Court stayed the election until the further order of the Court. Such order is still in full force and effect and said case is still pending awaiting hearing on a motion for summary judgment.

WHEREFORE, Plaintiff prays that a three-judge District Court be convened pursuant to §2284, Title 28 and §1973c, Title 42 of the United States Code to hear and adjudge that the Plaintiff's annexation does not violate Section 5 of the Voting Rights Act of 1965, as amended, in that it "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color", as guaranteed by the 15th Amendment.

CITY OF RICHMOND, VIRGINIA
/s/ Conard B. Mattox, Jr.
Conard B. Mattox, Jr.
City Attorney
Daniel T. Balfour
Assistant City Attorney
Room 300, City Hall
Richmond, Virginia 23219

[Certificate of Service Omitted in Printing]

January 28, 1971

Hon. John Mitchell
Attorney General
Department of Justice
Washington, D. C.

Re: Annexation proceedings in the Commonwealth of Virginia styled *City of Richmond* v. *Chesterfield County* - Voting Rights Act of 1965

Dear Mr. Mitchell:

On January 14, 1971, the Supreme Court of the United States decided the case of *Ernest Perking, et al* v. *L. S. Matthews, Mayor of the City of Canton, et al*, (No. 46, October term, 1970). The Court, in its opinion, stated that any change in the boundary lines of cities through annexation comes within the provisions of the Voting Rights Act of 1965. The Attorney General has the responsibility of approving or disapproving any changes in voting that may be necessary as a result of annexation. As the City Attorney of the City of Richmond, I am not advised whether the decision has a retroactive effect upon annexation cases that have become final prior to the Supreme Court's decision.

The Council of the City of Richmond, on December 26, 1961, authorized and directed that a portion of the County of Chesterfield be annexed in accordance with the laws of the Commonwealth of Virginia. As directed, a suit was instituted and became final on April 20, 1970, when the Supreme Court of the United States denied a petition for a writ of certiorari.

In order for you to be fully advised of the proceedings had in the case, I am attaching hereto the following exhibits:

1. Ordinance No. 61-334-288, adopted December 26, 1961, authorizing the annexation proceedings.

2. A copy of the petition filed in the Circuit Court of the County of Chesterfield on December 27, 1961.

3. Copy of an opinion rendered on July 1, 1969, delivered from the bench by the presiding judge of the annexation court.

4. The order of annexation entered on the 12th day of July, 1959.

5. An order denying an application for a stay of the annexation proceedings issued by the Chief Justice and two Justices of the Supreme Court of Appeals of Virginia, dated December 19, 1969.

6. A letter dated December 31, 1969, from the Hon. John F. Davis, Clerk of the Supreme Court of the United States, indicating that application for a stay to Mr. Justice Marshall and Mr. Justice Brennan was denied on December 30, 1969, and that an application to Mr. Justice Douglas was denied on December 31, 1969.

7. Copy of an order entered on April 30, 1970, indicating that the Supreme Court of the United States denied a writ of certiorari.

Would you please advise me whether or not the above proceedings come within the Voting Rights Act of 1965, and if so, what steps should be followed in order to secure your approval.

Respectfully,

C. B. Mattox, Jr.
City Attorney

CBM:kh

Enc.

Exhibit A

May 7, 1971

Mr. C. B. Mattox, Jr.
City Attorney
Department of Law
402 City Hall
Richmond, Virginia 23219

Dear Mr. Mattox:

As you know, the Supreme Court recently held in *Perkins* v. *Mathews*, 400 U.S. 379, 388-89 (1971), that "[c]hanging boundary lines by annexations which enlarge the city's number of eligible voters . . . constitutes the change of a 'standard, practice, or procedure with respect to voting,'" within the meaning of section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. This letter concerns your submission of a 1969 annexation to the city of Richmond.

Municipal annexations are, of course, commonly undertaken for a variety of reasons and affect a number of areas of concern to local governments. Section 5 is not addressed to annexations per se; but the Attorney General is obliged under section 5 to be concerned with the voting changes produced by an annexation. In the present instance, the city of Richmond elects representatives to its governing body on an at-large basis; its population is approximately evenly divided between whites and blacks. The submitted change would increase the city's population by approximately 43,000 new residents of whom a very small minority is Negro. In the circumstances of Richmond, where representatives are elected at large, substantially increasing the number of

eligible white voters inevitably tends to dilute the voting strength of black voters. Accordingly, the Attorney General must interpose an objection to the voting change which results from the annexation.

You may, of course, wish to consider means of accomplishing annexation which would avoid producing an impermissible adverse racial impact on voting, including such techniques as single-member districts. See *Chavis* v. *Whitcomb*, 305 F. Supp. 1364 (S.D. Ind. 1969). Moreover, section 5 permits seeking approval of voting changes by the United States District Court for the District of Columbia irrespective of any previous submission to the Attorney General.

Sincerely,

DAVID L. NORMAN
Acting Assistant Attorney General
Civil Rights Division

Exhibit B

August 2, 1971

The Honorable John N. Mitchell
Attorney General of the United States
Department of Justice
Constitution Avenue
Washington, D. C. 20530

Dear Mr. Mitchell:

Pursuant to the requirements of Section 5 of the 1965 Voting Rights Act, I wish to re-submit to you on behalf of the City of Richmond the City's request for approval of the election of councilmen for the City at large. This re-submission and request for approval is predicated upon certain events that have taken place since Mr. David Norman's letter to me dated May 7, 1971, in which the Justice Department interposed "an objection to the voting change which results from annexation". A brief resume of the events that have occurred to date may be of some assistance to you.

The Council of the City of Richmond, on December 26, 1961, authorized and directed the City Manager and the City Attorney to institute annexation proceedings to annex to the City certain territory located in Henrico County and Chesterfield County. As directed by the Council, the City Attorney instituted annexation proceedings against both counties on December 27, 1961. Due to the fact that annexation in Virginia is a judical matter, determined by a three judge court, the City Attorney elected to try the annexation case against Henrico County first. After months of preparation and trial, the annexation court, on April 27, 1964, issued its

opinion granting to the City approximately 16 square miles of territory lying within the County in which there lived approximately 45,310 persons, of which 98 + % were white. After further agrument by counsel, the court entered on July 31, 1964, an order implementing its opinion. The Council, on March 8, 1965, declined the award of the court for the reason that the cost to the City in an amount of approximately $42,000,000 was excessive and that there was substantially no vacant land within the area so awarded for future development.

Immediately following the decision of the Council to decline the Henrico annexation award the City Attorney proceeded to try the Chesterfield annexation case. After a series of hearings involving jurisdictional matters, the suit was tried on its merits, and the City was successful in annexing 22.66 square miles of Chesterfield County in which resided 47,262 persons. The decree of the annexation court was entered on July 12, 1969, and became effective at the last moment of December 31, 1969. The United States Supreme Court, on April 20, 1970, sustained the validity of the proceedings by denying a petition for a writ of certiorari. *Deerbourne Civic & Recreational Association, et al* v. *City of Richmond*, No. 1237, October Term 1969. The Council proceeded to carry out the decree of the court and has since that date collected taxes from and rendered services in the annexed area.

Subsequent to the enactment by the Council of the annexation ordinances, but prior to the annexation decree in the Chesterfield case, Congress enacted on August 6, 1965, the Voting Rights Act of 1965, 42 U. S. C. 1973(c). At this point, as the chief legal advisor to the Council, I did not consider this Act to apply to annexation proceedings. Upon learning of the United

States Supreme Court's decision in *Perkins* v. *Matthews*, 400 U. S. 379, decided January 14, 1971, and in compliance with the Voting Rights Act, I submitted to your office on January 28, 1971, an application for approval of the changes occasioned by the annexation of the territory from Chesterfield.

By letter dated May 7, 1971, I was advised by the Honorable David L. Norman, Acting Assistant Attorney General, Civil Rights Division, that the Attorney General "must interpose an objection to the voting change which results from the annexation". Mr. Norman further advised as follows:

> "You may, of course, wish to consider means of accomplishing annexation which would avoid producing an impermissible adverse racial impact on voting, including such techniques as single-member districts. See *Chavis* v. *Whitcomb*, 105 F. Supp. 1364 (S.D.) (Ind. 1969)".

Subsequent to Mr. Norman's letter of May 7, the Supreme Court of the United States, on June 7, 1971, in *Whitcomb* v. *Chavis*, U. S. , 39 L. W. 4666, reversed the earlier holding of the United States District Court for the Southern District of Indiana, relied upon by Mr. Norman, and permitted multi-member districts.

Since Mr. Norman's letter to me of May 7, 1971, other events have transpired, including a decision of the United States District Court for the Eastern District of Virginia which bears on the City's request for your consideration.

Pursuant to the Virginia Constitution, the General Assembly of Virginia reapportioned the State into districts for the purpose of electing State Senators and Members of the House of Delegates. The Act of the

Assembly reapportioning the State was submitted to your office for approval. By letter dated May 7, 1971, addressed to The Honorable Linwood Holton, Governor of Virginia, Mr. David L. Norman, of your office, advised the Governor that the Attorney General interposed an objection to "(1) house multi-member districts in Hampton, Newport News, Portsmouth and *Richmond*" (emphasis added). Mr. Norman advised the Governor as he did me that "the technique of multi-member districts cannot be used if it tends to minimize the voting strength of racial minorities, *Chavis* v. *Whitcomb*, 305 F. Supp. 1364 (S. L. Ind. 1969)".

Subsequent to Mr. Norman's letter of May 7, and the Supreme Court's reversal of *Chavis* on June 7, by telegram dated June 10, you advised Governor Holton in part as follows:

> "In accordance with your request, we have reconsidered our objection to the multi-member aspects of the plan of reapportionment of the Virginia House of Delegates. Inasmuch as our objection was based on the decision of the United States Supreme Court in *Whitcomb* v. *Chavis*, and that decision was reversed on June 7, 1971 by the Supreme Court, our objection to the House multi-member district is hereby withdrawn."

On July 2, 1971, the District Court for the Eastern District of Virginia, four judges sitting, rendered its opinion involving the constitutionality of the reapportionment of the State of Virginia for the election from districts of members to the House of Delegates and Senate.

The opinion covered three different cases which were consolidated for the purpose of trial. These cases were as

follows: *Howell* v. *Mahan*, Civil Action No. 105-71-N; *Parris* v. *Prichard*, Civil Action No. 111-71-A; *DuVal* v. *Prichard*, Civil Action No. 174-71-R. The court, in its opinion noted that "the *Thornton* plaintiffs object that black residents of several metropolitan areas are denied full voting strength by multi-member districts."

In answering this contention, the Court stated:

> "In *Whitcomb* v. *Chavis*, *supra*, U. S. , 39 L. W. 4666 (June 7, 1971) multi-member districts are declared not per se unconstitutional. Therefore, the Assembly's adoption of the representational theory which embodies multi-member rather than single-member districts is accepted. We are not unaware of the preference for single-member districts in 'large' areas expressed in *Connor* v. *Johnson*, U. S. , 39 L. W. 3535, 3535-3536 (June 3, 1971), but we do not think this decision is preclusive here."

The Court found that the reapportionment of the State insofar as it relates to the City of Richmond would not be altered.

In this respect the Court said:

> "33. Thirty-third: Five delegates; existing population 249,621 – a deviation of -3.4% (calculated with reference to the floater district as District Thirty-five) – consisting of the City of Richmond. This will not be altered."

The multi-member district for the City of Richmond, for the purpose of electing five delegates encompasses the exact boundaries of the City from which all members of Council are elected. It does not seem that there should be an objection to the election of nine councilmen from the

same geographical area, and there be no objection to the election of five members to the House of Delegates from the same area. For these reasons, we respectfully urge you to reconsider the City's request for approval of the election of councilmen at large as has been the practice since 1948.

Respectfully submitted,

C. D. Mattox, Jr.
City Attorney

CBM:kh

Exhibit C

Mr. C. B. Mattox, Jr.
City Attorney
Department of Law
402 City Hall
Richmond, Virginia 23219

Dear Mr. Mattox:

This is in response to your resubmission on August 2, 1971, of the 1969 annexation to the City of Richmond for reconsideration pursuant to Section 5 of the Voting Rights Act. An objection was interposed to the initial submission by my letter of May 7, 1971.

We have reviewed and considered the additonal information you furnished, as well as the comments and views expressed by yourself and Mr. Lewis F. Powell, Jr., who submitted a memorandum in support of the resubmitted change, and the recent findings announced by Judge Merhige in pending litigation involving this annexation. While we found this additional material both relevant and useful, we find no basis for withdrawing our objection.

Although, as you point out, the intervening decision of the Supreme Court in *Whitcomb* v. *Chavis*, 403 U.S. 124, did recognize that multi-member legislative districts are not unconstitutional *per se*, we do not believe that opinion is dispositive of issues raised by the Richmond annexation. In our view, considering all the available facts and circumstances, the annexation of a large, almost exclusively white area does have a discriminatory racial effect on voting in the context of an emerging black majority electorate, at-large council elections, and evidence of racial purpose and effect introduced in a federal court proceeding. It is therefore objectionable under Section 5 of the Voting Rights Act.

We would like to reiterate our view that the objection of the Attorney General under the Voting Rights Act relates only to voting and election aspects of a proposed change and, therefore, need not necessarily invalidate this entire annexation. Thus, as we have suggested before, one means of minimizing the racial effect of the annexation and still allowing for the city's growth and expansion would be to adopt a system of single-member, non-racially drawn councilmanic districts in place of at-large voting. Should this or any other change be enacted and submitted to the Attorney General, we will make every effort to give it prompt consideration.

Sincerely,

/s/DAVID L. NORMAN
DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division

Exhibit D

July 5, 1972

The Honorable Richard Kleindienst
Attorney General of the United States
Department of Justice
Constitution Avenue
Washington, D. C. 20530

Dear Mr. Kleindienst:

On August 2, 1971, as counsel for the City of Richmond, I requested The Honorable John N. Mitchell, then Attorney General of the United States, to reconsider an objection interposed on May 7, 1971, by the Justice Department to the voting change which resulted from the annexation by the City of Richmond of certain territory formerly located in Chesterfield County. In response to my request, The Honorable David L. Norman, Assistant Attorney General, Civil Rights Division, on September 30, 1971, advised that the Attorney General had reviewed the additional information as submitted on August 2, and had considered the findings announced by The Honorable Robert R. Merhige, Jr., Judge of the United States District Court for the Eastern District of Virginia, in the case styled *Curtis Felt, Sr., et al* v. *City of Richmond, et al*, Civil Action No. 151-71-R.

It is the City's view that the Holt case should be considered as it has now become final. The District Court, on November 23, 1971, released a memorandum which clearly sets forth the Court's views that were considered and argued on appeal. For your convenience a copy of this memorandum is attached. The City and

Plaintiff Holt appealed to the United States Court of Appeals for the Fourth Circuit. The District Court had ordered a special election to be held on January 25, 1972, which in effect would elect nine councilmen, seven from one ward or district, and two from a second ward or district. The Fourth Circuit stayed this special election by order entered on December 8, 1971. The Fourth Circuit heard the case and rendered its decision on May 3, 1972. The Court found that there was no violation of the Fifteenth Amendment and reversed Judge Merhige's order. The Plaintiff Holt appealed the decision of the Fourth Circuit to the United States Supreme Court, which denied the Writ of Certiorari on June 26, 1972.

It is apparent that the Voting Rights Act of 1965 is a codification of the rights guaranteed by the Fifteenth Amendment as indicated in the title of the Act: "An Act to enforce the Fifteenth Amendment to the Constitution of the United States and for other purposes." The Act speaks in terms of enforcing the "guarantees of the Fifteenth Amendment."

In view of the purposes stated in the Act and in view of the findings of the Fourth Circuit Court of Appeals, the denial of the Writ by the Supreme Court, we respectfully request that the objection interposed by the Justice Department by letter dated May 7, 1971, be withdrawn.

Respectfully submitted,

/s/ C. B. Mattox, Jr.
C. B. Mattox, Jr.
City Attorney

CBM:kh

Enc.

Exhibit E

First Amendment to Complaint, Filed November 9, 1972

[Caption omitted in printing]

PLAINTIFF'S FIRST AMENDMENT TO COMPLAINT

Plaintiff, City of Richmond, Virginia, hereby makes an amendment to the Complaint previously served and filed herein, as follows:

1. On page 5 of the Complaint, after the sixth line and Paragraph No. 7, add the following paragraph:

"7.a. Plaintiff desires and intends to hold an election at large as has historically been done, allowing the citizens of Plaintiff's total area to vote. Insofar as Plaintiff's annexation may constitute a voting qualification or prerequisite to voting, or effect a standard, practice, or procedure with respect to voting within the meaning of the Voting Rights Act of 1965, such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color."

[Signatures and certificate of service omitted in printing]

Answer of United States, with Exhibit

[Caption omitted in printing]

ANSWER OF DEFENDENTS

For their answer to the Complaint filed herein, the defendants, United States of America and Attorney

General Richard Kleindienst, state:

1. Defendants admit the allegations contained in paragraphs 1, 2, 6, 7, and 9 and of the Complaint.

2. Defendants admit the allegations contained in paragraph 3 of the Complaint except that they can only admit that the population statistics alleged are approximately correct.

3. Defendents admit the allegations contained in paragraph 4 except that the allegation contained in the second sentence is denied for lack of sufficient information to form a belief as to the truth thereof.

4. Defendants admit the allegations contained in paragraph 5 of the Complaint except that, for lack of sufficient information to form a belief, they deny that portion of the last sentence alleging the reason for the dismissal of the Henrico annexation suit.

5. Defendants admit the allegations contained in paragraph 8 of the Complaint except the allegation that the Attorney General, in his letter of objection dated May 7, 1971, relied on *Chavis* v. *Whitcomb*, 305 F. Supp. 1364, is denied.

6. Defendants admit the allegations contained in paragraph 10 of the Complaint. Defendants aver further that after the Complaint was filed in this case a response was sent to the City Attorney advising that in view of the pendency of this lawsuit reconsideration of the Attorney General's objection had been discontinued. Copy of letter attached as Exhibit A.

7. The allegations contained in paragraph 11 are admitted. The defendants aver further that a hearing was held in the lawsuit there described on October 25, 1972.

By way of affirmative defense defendants allege that the plaintiff has failed to state a claim upon which relief may be granted in that the Complaint fails to allege that the voting change involved "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color" as required by the Voting Rights Act, 42 U.S.C. 1973c.

Having fully answered the allegations in the Complaint, the defendants demand a judgment of dismissal or other such relief as the Court deems appropriate.

/s/ GERALD W. JONES
GERALD W. JONES
ROBERT R. RUSH
Attorneys
Department of Justice
Washington, D. C. 20530

EXHIBIT A

[Certificate of service omitted in printing]

Mr. C. B. Mattox, Jr.
City Attorney
City of Richmond
Department of Law
Richmond, Virginia 23219

Dear Mr. Mattox:

This is in response to your July 5, 1972 letter to the Attorney General asking for reconsideration of our May 7, 1971 objection to the voting change which resulted from the annexation by the City of Richmond of territory formerly located in Chesterfield County.

As you know, a lawsuit seeking a declaratory judgment under Section 5 of the Voting Rights Act was filed in the United States District Court for the District of Columbia by the City of Richmond on August 25, 1972. In view of that development we discontinued our reconsideration since the matter is now pending before the court.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division

Answer of United States to Amendment to Complaint

[Caption omitted in printing]

DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDMENT TO COMPLAINT

The defendants, United States of America and Attorney General Richard G. Kleindienst, for their Answer to the Amendment to the Complaint, which adds paragraph 7.a., state:

Defendants admit the allegations contained in the first sentence of paragraph 7.a. except for that part of the sentence which alleges elections have been held historically at-large, which the defendants deny.

Defendants deny the second sentence of paragraph 7.a. Further, defendants aver that the annexation does constitute a voting qualification or prerequisite to voting or a standard, practice or procedure with respect to voting within the meaning of the Voting Rights Act of 1965.

/s/GERALD W. JONES
GERALD W. JONES
ROBERT R. RUSH
Attorneys
Department of Justice
Washington, D. C. 20530

[Certificate of service omitted in printing]

Opinion of Special Three-Judge Annexation Court, sitting in the Circuit Court of Chesterfield County, dated July 1, 1969, in *City of Richmond* v. *County of Chesterfield, et al.*

VIRGINIA:
IN THE CIRCUIT COURT OF CHESTERFIELD COUNTY
City of Richmond, Petitioner
v.
County of Chesterfield et al, Defendants

OPINION

Until June 21, 1969, when the County offered to introduce evidence of an agreement entered into by the Mayor of Richmond (with the approval of six of the nine members of the City Council) and the Chairman of the Board of Supervisors (with the approval of three others of the six members of the Board of Supervisors of the County), the hearing of this suit followed the usual pattern of big city annexation proceedings.

The City's petition was filed July 2, 1962, and for various reasons, including an appeal from an order of dismissal (208 Va. 278), trial on the merits was not commenced until September, 1968 and was not concluded until the final argument on June 26, 1969.

The City sought to annex an area containing some 51 square miles which in 1968 was estimated to contain about 72,000 people of a total County population of about 110,000. The school population figures were even

more striking: Total County 30,000; Annexation Area 20,000.

Richmond has had no annexation on the South side of the James River since 1942, and, as is the case of almost all large cities, there has been a substantial growth of urban residential population in the area adjoining the City's boundaries. As usual, this growth has been to some extent at the cost of city population, because of the lower cost of residential properties as well as the lower taxes in the County. In fact, the growth in the annexation area, especially during the six year period from 1962 to 1968 was described by some of the witnesses as "phenomenal". Our views (we took several, including an extensive helicopter ride), together with the evidence adduced leave no doubt in our minds that the entire annexation area is rapidly becoming a densely populated urban community. Of course, the closer to Richmond the more the land has already been developed for residences and the usual businesses. It must be observed that the land in the entire annexation area is characteristically urban rather than rural.

Chesterfield County has developed an excellent modern government which satisfactorily supplies its citizens with all needed services, such as sewage disposal, public water, police protection, etc., and operates at a cost which results in taxes considerably lower than those of the City. Small wonder that the residents of the annexation area are happy in their present status and oppose City annexation with its attendant increase in taxes.

At the outset, as usual in these cases, the County took three positions: First, that the City is not entitled to any annexation; second, if there is to be any annexation the

area should be smaller than that sought; and third, that the City's estimate of compensation to the County is wholly inadequate. In fact there was a disparity of almost $50,000,000 between the two.

E. I. Du Pont de Nemours & Company intervened to oppose annexation of its property.

Some 12,000 individuals and eleven civic organizations filed intervening petitions. The substance of their positions was that there should be no annexation of any territory.

The Bon Air Transit Company intervened (under the provision of Code Sec. 15.1-1042 (g) for the purpose of advancing a claim for compensation for loss anticipated as a result of the annexation.

The Chesterfield Refuse Company intervened for the purpose of advancing a claim for compensation for pecuniary loss anticipated as the result of the annexation.

Newton Ancarrow intervened for the purpose of opposing the City's undertaking of additional sewage treatment at its Deepwater Plant.

It seems to us that it is copiously apparent that Richmond is entitled to some annexation in this case. To deny this is to say that the City can never grow into Chesterfield County. Obviously cities must in some manner be permitted to grow in territory and population or they will face disastrous economic and social problems. The exodus of productive citizens and the influx of the economically underprivileged create an intolerable condition that must have some means of amelioration.

The City is fully capable, both managerially and financially, of supplying some additional territory with sound city government. The evidence overwhelmingly convinces us of the necessity for an expediency of some annexation:

> ". . .Considering the best interests of the County and the City *** . . . the best interests, services to be rendered and needs of the area proposed to be annexed, and *the best interests of the remaining portion of the County*." (Underscoring supplied) (Code Sec. 15.1-1041(b).

The individuals who live in the annexed area, for the time being, will probably not receive any higher degree of service than supplied by the County. The contention that they do not need the City was answered in *Henrico County* v. *Richmond*, 177 Va. 754, 788, 15 S.E. (2d) 309:

> "Moreover, it is no answer to an annexation proceeding to assert that individual residents of the county do not need or desire the governmental services rendered by the city. A county resident may be willing to take a chance on police, fire and health protection, and even tolerate the inadequacy of sewerage, water and garbage service. As long as he lives in an isolated situation his desire for lesser services and cheaper government may be acquiesced in with complacency, but when the movement of population has made him a part of a compact urban community, his individual preferences can no longer be permitted to prevail. *It is not so much that he needs the city government as it is that the area in which he lives needs it*." (underscoring supplied)

People who establish their residences near a large city must anticipate that eventually they will become a part of that municipality.

Although there is no precise definition of the term "expediency," the best we have been able to find is that pronounced in substance in *Norfolk County* v. *Ports-*

mouth, 186 Va. 1032, 1043, 1044, 45 SE (2d) 136. Expedient means "advantageous" and in furtherance of the policy of the State that "urban areas should be under urban government and rural areas under county government".

The County's witnesses divided the annexation area into forty-three study areas for the obvious purpose of persuading the Court that the entire area sought should not be granted, but the Court should award some combination of such study areas which would constitute a considerable expansion of the City's boundaries and at the same time lessen the violence of the impact of annexation upon the County's school and public utility systems as well as all of its governmental agencies.

We are aware of no big city case in which the annexation Court has granted the total area sought or the exact amount of compensations contended for by either party, and both the City and County may have anticipated that the Court might establish some boundary within the area sought which it considered to be reasonably adapted to "balance the equities", giving to the City enough territory for its needs in the reasonably near future and at the same time permitting the County to retain its present enviable status as a flourishing, capable, viable government.

Not only have the Annexation Courts compromised as to the boundary lines but even more so as to the compensation by the City to the County. It is exceedingly difficult to arrive at the values of public properties. Different experts have widely divergent views on the subject even under the yardsticks prescribed by Code Sec. 15.1-1043. The City's experts are always much more conservative than the County's. But the widest differences of all are usually to be found in the expert's

estimates of . . . . ."prospective loss of net tax revenue during the next five years". . . . . This is certainly true in the instant case.

In the present case, until the evidence of the so-called agreement was offered, the Court was faced with the problem of determining the annexation line and fixing the amount of compensation. If the 51 square mile territory were granted the Court would have to decide as to whose experts were more convincing as to the County's compensation. If the Court awarded too little the people remaining in the County would suffer; if too much, the County people would be enriched at the expense of the City people. The Court must "balance the equities". If the City felt that the Court had not "balanced the equities", it might, with the consent of the Court, decline to accept the annexation. Code Sec. 15.1-1044.

Decisions such as this point up the fact that an annexation Court exercises not only judicial, but also some legislative functions. This was frankly conceded by the majority opinion in *Henrico County* v. *City of Richmond*, 106 Va. 282, 55 SE 683.

These things must have been on the minds of the chief executives of the two governments when they decided to negotiate in the attempt to arrive at an agreement as to what they considered to be to the best interests of their respective constituents.

The two governing bodies had experienced a growing lack of cooperation which almost amounted to animosity as the too-long confrontation of this case progressed. The City's failure to supply the needs of the growing area for water and sewer prompted the County to create excellent facilities to supply such needs, which facilities in the eyes

of the County would be seriously impaired as to efficiency and value if the City's plan of annexation were adopted.

Mr. Horner, the Chairman of the Board of Supervisors of the County, testified that one of the desires which prompted the agreement was to promote a better spirit of cooperation and friendliness between the City and the County. We think that this attitude is both praiseworthy and practical.

So far as we can ascertain, a compromise between two governing bodies in an annexation case is unprecedented. While the City objected to the admission of evidence of the agreement and moved to strike it at the time of its presentation, the objection and motion were later withdrawn. Both sides admit that the agreement is not binding upon the Court.

After mature consideration, we feel that the agreement is entitled to great weight. It must be remembered that the parties to the agreement perform the legislative functions of their governments as duly elected representatives of the people. When they decide that their constituents are benefitted by an action, such a decision should not be treated lightly. Of course, it must not be overlooked that they have not acted officially by ordinance or resolution.

This, of course, does not mean that this Court should abdicate its responsibility to decide this case on the merits, but it does mean that in our deliberations we must seriously consider the evidence of what these officials have conscientiously agreed upon after what was described in the arguments as hours of tedious negotiation and "blood, sweat and tears".

While the original agreement specified the annexation

line with reasonable precision and set forth the exact amount of compensation to be paid the County, it was seriously lacking in detailed solutions of the school and utility problems. It was apparent that, unless the County and City could agree upon some method of temporary continuation of the County's plans for the education of the children in the annexed area, a serious disruption would occur.

The two parties after consultation with their school officials and engineers solved these problems by an implementing agreement, dated June 25, 1969, marked County Exhibit No. 108.

We have studied the finalized agreement and have viewed the proposed boundary line, and find that it meets all requirements of necessity and, most important of all, expediency. The acquisition of the some 23 square miles of territory and some 43,000 people will solve many of the City's problems, both now and for some time to come. The impact upon the remainder of the County will not be such as drastically to impair its functionins as a modern governmental agency. The compensation appears adequate and not excessive. The conditions under which the schools will be operated and the school building program continued would appear to be designed to prevent the disruption of the children's education which originally caused us deep concern. The agreement as to the operation of utilities seems practical.

In sum, we believe that the boundary line set forth in the agreement should be the annexation line and that all terms and conditions specified should constitute the conditions of annexation verbatim, and we so adjudge and decide.

It must be remembered that this Court remains in existence for five years to "enforce the performance of the terms and conditions under which annexation was granted" . . . . . Code Sec. 15.1-1047.

We are of opinion that this Court is without jurisdiction to make an award of compensation for loss of business by Chesterfield Refuse Company.

It is our opinion that the effective date of the annexation order should be midnight, December 31, 1969.

Exhibits from *Holt* v. *City of Richmond*, 334 F. Supp. 228 (E.D.Va. 1971)

A. "Off the Record Conference in Chambers" – Originally Defendant's Exhibit 16 – Annexation Transcript, pp. 3234-3, 10, 11, 19, 20, 23, 25.

[3234]:

[3] As far as I am concerned, agreement has been reached. We are seeking the advice of this Court on the proper mechanics of concluding the agreement.

JUDGE ABBOTT: Can I ask a few questions?

MR. THORNTON: Yes, sir. This is my statement and I make it here. These gentlemen may have a lot of questions about mechanics.

JUDGE ABBOTT: Well, first, I would like to say that we are pleased that you have gotten together and settled your differences. I think it might in the end create good

will and harmony between the people but I think mechanics is a question to consider.

Now, you say you gentlemen have agreed. Does that mean the Board of Supervisors themselves will have to take formal action on it? Does that mean the City Council will have to take formal action on it? And what are we going to do about protestors?

MR. THORNTON: If your Honors please, of course, this is something that has to be considered as we continue to see if we can resolve our differences.

* * *

[10] The chances are we are going to approve it but sometimes things come up that you can't approve. I have been in several annexation cases in which counsel have agreed that it wasn't practical, you had to change it a little bit; it didn't affect the outcome of the case any but it made things more practical or equitable.

Just listening to what you have said this morning, it would be my suggestion that we just proceed with the case and then when the evidence is in, let us hear the Protestors and then you can tell us what your agreement is and we can make our decision accordingly, and in that way the Intervenors won't feel like they have been kicked around or left out.

There would be no need for the City Council to have a meeting, it wouldn't be necessary for the Board of Supervisors to have a meeting. That would be a decision for the Court.

The only thing about it is that either side could appeal, which would be perfectly all right; I suppose they could do it anyway, I don't know.

MR. MAYS: It would certainly be our suggestion, your Honor, to go forward with the [11] case because,

in the first place, it would look pretty odd to recess for three days and then get the Intervenors in on Thursday. That would really be odd.

JUDGE ABBOTT: Let us go ahead with the case and while we are hearing the Intervenors let the City and the County present to the Court in writing which we will hold here confidentially in the office when you have a proposition that you all have agreed upon, and then when we consider the case we will have it in mind.

MR. THORNTON: I will do that right now.

MR. MAYS: No, sir; no, sir. I hope you will not make that observation. Now, it is not necessary. You have three days of trial and you have two days of Intervenors' testimony, and I see no reason why we should make a record of the discussion that have gone on.

It is the City Attorney's position that we don't have a deal at all. Now, he may or may not be right. We will see what he says. I have not been in negotiations, I have seen nothing.

MR. THORNTON: Let me speak to this, . . . [19] where the press and the radio can get it. When you write it, just hand it to me instead of laying it on the desk and I will give it to you gentlemen later on. I just don't want the press getting ahold of what we have been talking about in here because the whole thing will just – it would be wrong.

MR. MAYS: Yes, sir. That's the reason I suggest, sir, that if this is attempted to be put in as evidence we will certainly object to the whole thing being opened up and we think we would be in for a great controversy.

JUDGE ABBOTT: I don't think we ought to put this in evidence but just proceed with the trial as if you hadn't been in here.

MR. MAYS: Yes, sir.

JUDGE ABBOTT: Then when the evidence is all in you can submit to us what your agreement is.

MR. MAYS: All right, sir.

MR. THORNTON: Your Honor – excuse me, your Honor.

JUDGE MARSHALL: That's all right, I want to hear everybody before I voice my opinion.

MR. THORNTON: If your Honor please, [20] this would all be well and good had we not – as you say, proceed as if nothing had happened. Well, something did happen and something of very great significance, as far as we are concerned.

The Court is worrying about the interve ors. I say to the Court, frankly, if we have got to go apace on the evidence which was planned and the people who are going to take the stand, people that have to take the stand, as far as the whole case of Chesterfield County is concerned, we are not going to finish by the day the Intervenors are scheduled to come up.

JUDGE ABBOTT: Well, we will just have to take it in stride.

MR. THORNTON: All right, sir.

JUDGE ABBOTT: I might suggest that if you have entered into an agreement that the City need not cross examine so extensively as you have.

MR. MAYS: We hadn't planned to, your Honors.

JUDGE ABBOTT: And that would certainly save some time.

MR. THORNTON: If your Honor please, you stress the fact, and Mr. Davenport backed me up, . . .

* * *

[23] MR. MATTOX: Yes, sir, but no one is going to submit to you, Judge Abbott, or to this Court, no one

on behalf of the City of Richmond, no one can represent to this Court that it is an agreement nor neither can anyone submit that to the Court without the action of the City Council.

JUDGE ABBOTT: Oh, I see the point you are making now.

MR. MATTOX: We can't do it and we wouldn't do it.

JUDGE ABBOTT: There has been talk of a settlement that Council have agreed on that the City hasn't agreed to it formally or officially.

MR. MATTOX: Yes, sir.

JUDGE ABBOTT: I see the point you are making.

JUDGE WHITLEY: I have got a question here. Suppose you come in and say this is what legal counsel have agreed on, then we don't have the benefit of argument as we have in an adversary proceeding; we are not going to be exercising our discretion, we are going to be taking your decision. And without fully arguing the case, we won't have the facts and the figures to really decide it on.

* * *

[25] Board or the Council?

MR. THORNTON: Yes, sir.

JUDGE MARSHALL: I would like to say, gentlemen, that would hold great weight with me in my decision if it was shown openly that the Mayor and six members of the Council had agreed and that the Board of Supervisors had agreed.

I would hesitate to overrule their agreement.

JUDGE ABBOTT: I think all of us would.

MR. THORNTON: Yes, sir. And, if your Honor please —

JUDGE MARSHALL: It might be that I would but I would give it great weight. However, I would want it

made publicly; I would want it made in open court.

MR. THORNTON: Precisely what I intend to do.

JUDGE MARSHALL: And I had contemplated that would be done at the time that was set for argument after all the evidence had been introduced. I haven't had cause to think about the effect on the intervenors or what their attitude would be, whether or not they would be entitled to additional . . .

* * *

B. Defendant's Exhibit 29[A], pages 4579, 4580, 4585, 4586

[4579] JUDGE WHITLEY: In other words, the area that is within the Horner-Bagley line contains a large part of what is known as Bon Air area and some of that is left out?

THE WITNESS: The old Bon Air is left in the County, which used to be a resort place for rich people in Richmond years ago. That is left in the proposed, in the County on the proposed line, but Southampton, Oxford Addition, Huguenot Farms, Traylor Estates, all of that is Bon Air, too.

JUDGE ABBOTT: Explain to the Court, it may be the other two members of the Court understand it but I don't, what is going to happen to the water services and the sewer services within the Horner-Bagley line? Who is going to operate the water, who is going to operate the sewerage or take care of the sewerage? Have you worked out those details?

THE WITNESS: Yes, sir. They have been worked out and in the spirit of cooperation and mutually.

As to water, each can handle their own with no problem. It may be in the transition we would [4580] have to sell the City a little water until they could get lines reorganized, and perhaps the City would want to continue to sell us a little water in certain places.

In our sewer, that's a situation where they propose to ultimately let the City serve the natural drainage areas of sewers that would come from the County, and the County would serve the City where their sewage would drain into trunks that would lead to the Falling Creek disposal plant.

JUDGE ABBOTT: You all agreed on that?

THE WITNESS: Yes, sir.

JUDGE ABBOTT: Now, about school children? Have you agreed about educating these children within this line that you have agreed on? And those who live outside the line?

THE WITNESS: Yes, sir.

JUDGE ABBOTT: About going back and forth to school?

According to the evidence here, the school children are the ones that it seems like are going to suffer most right here.

THE WITNESS: Sir, we have talked about that at length, in fact, spent a good part of . . .

* * *

[4585] Now, this property is not developed on either side of this road at the present time except for some large homes with large acreages.

JUDGE ABBOTT: And you and the City have agreed on the water and sewerage operations after this takes effect, if it does take effect?

THE WITNESS: Yes, sir. We have.

JUDGE ABBOTT: All right. Suppose you can't agree?

THE WITNESS: As I understand the proposition that will be submitted at a later time, it will include a paragraph that it is agreeable to both parties that the rates will be submitted for arbitration.

JUDGE ABBOTT: All right. Now, on this debt the City is to pay –

MR. THORNTON: It's not the total on that sheet. It's three million more on that sheet.

JUDGE ABBOTT: The City is to pay so much in cash.

Now, have you all agreed on the City assuming bond payments? Some of these bonds are revenue bonds for sewer and water and in that case the County is not liable for the bonds at all, the revenue takes [4586] care of it. How are you going to work that out?

THE WITNESS: The sewer bonds, sir, are general obligation bonds.

JUDGE ABBOTT: They are?

THE WITNESS: Yes, sir.

By Judge Abbott:

Q. But the water isn't.

A. Water is not; that's revenue bonds. And it is proposed that according to the per cent that they worked out – it has been worked out – of the debt that each time the payment came up that they would pay their pro-rata part of the principal and interest at the time payment was due, which would have been each year or each time a payment was due that this per cent of the debt that is worked out they will pay the pro-rata part of the debt that was due at that time.

Q. I guess that's the only way you could work it out.

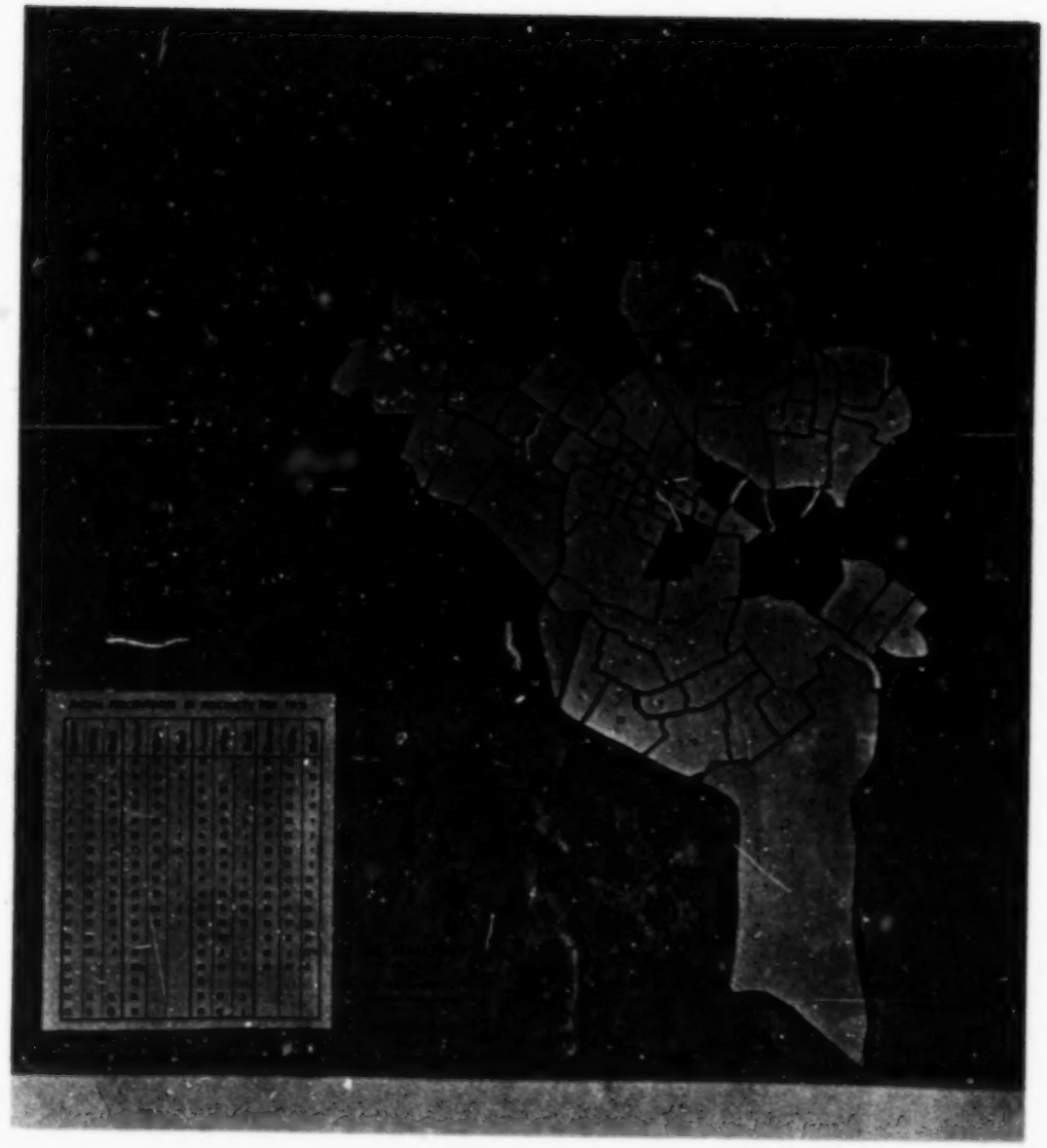
A. Yes, sir.

Q. But you and the City are in full agreement on all these details?

A. Yes, sir, to the best of my knowledge we are in full agreement.

Would it be that the Court – you see, . . .

* * *



C. Plaintiff's Exhibit 1, pp. 1, 2, 3, 4 – Racial Population Maps for 1940, 1950, 1960 and 1971.

RACIAL PERCENTAGES BY PRECINCTS FOR 1930
CITY OF
RICHMOND
VIRGINIA
Y-6712-B

RACIAL PERCENTAGES BY PRECINCTS FOR 1960
CITY OF
RICHMOND
VIRGINIA
Y-6712-B

Plaintiff's Exhibit 2 – Census Tabulations for 1930 through 1970, with Intercensus Estimates.

Population of the City of Richmond, Virginia, 1930-1970

	Total	White	%	Nonwhite	%
1930 Census	182,929	129,871	71%	53,058	29%
1940 Census	193,042	131,706	68%	61,336	32%
1942 Annexation					
1950 Census	230,310	157,228	68%	73,082	32%
1954	240,492	162,145	67%	78,347	33%
1955	238,707	152,520	64%	86,187	36%
1956	240,744	152,181	63%	88,563	37%
1957	237,219	146,643	62%	90,756	38%
1958	238,303	145,643	61%	92,511	39%
1960 Census	219,958	127,627	58%	92,331	42%
1961	220,188	125,208	57%	94,980	43%
1962	220,555	123,132	56%	97,423	44%
1963	221,150	122,075	55%	99,075	45%
1964	219,205	119,028	54%	100,177	46%
1965	219,065	118,952	54%	100,113	46%
1966	217,671	113,333	52%	104,338	48%
1967	216,456	111,112	51%	105,344	49%
1968	216,451	108,398	50%	108,053	50%
1969	217,527	n.a.		n.a.	
1970 Census	249,621	143,857	58%	105,764	42%
1970 Without Annexation	46,262	45,707	98.8	555	1.2%
	203,359	98,150	48%	105,209	52%

Note: Annexation by Richmond from Chesterfield and Henrico in 1941.
Annexation by Richmond from Chesterfield in 1970.

n.a. Not Available.

Source: U.S. Bureau of Census; intercensal estimates prepared by the Bureau of Population & Economic Research, University of Virginia.

Plaintiff's Exhibit 3, a through n – Councilmanic Election Returns for City of Richmond, 1960-1970.

3-A

COUNCILMANIC ELECTION – June 14, 1960

Rank	Candidate	Endorsement	Race	Vote	%
1	Sheppard	RCA & Crusade	White	14,879	53.1
2	Woodward	RCA & Crusade	White	14,096	50.7
3	Sadler	RCA & Crusade	White	13,435	48.2
4	Rudd	RCA & Crusade	White	12,611	45.4
5	Johns	RCA & Crusade	White	11,389	40.9
6	Ford	RCA & Crusade	White	10,988	39.5
7	Throckmorton	Ind. & Crusade	White	10,707	38.5
8	Garber	Ind. & Crusade	White	10,674	38.3
9	Smithers	RCA & Crusade	White	10,574	38.0
10	Bagley	Independ.	White	10,550	37.9
11	Heberle	Independ.	White	10,196	36.7
12	Macon	Independ.	White	10,105	36.4
13	Herrink	Independ.	White	9,111	32.7
14	Proctor	Independ.	White	9,001	32.4
15	Allen	Independ.	White	8,909	32.0
16	Carwile	Independ.	White	8,752	31.5
17	O'Ferrall	Independ.	White	8,510	30.6
18	Williams	Independ.	White	8,325	29.9
19	Jenkins	Independ.	White	2,113	7.6
20	Thomas	Independ.	White	1,910	6.9
21	Anthony	Independ.	White	1,401	5.0
22	Brock	Independ.	White	1,256	3.7

TOTAL VOTE 27,823

3-B

COUNCILMANIC ELECTION – June 12, 1962

Rank	Candidate	Endorsement	Race	Vote	%
1	Haberle	Crusade	White	11,348	50.9
2	Sheppard	Crusade & RCA	White	11,184	50.0
3	Woodward	Crusade & RCA	White	10,353	46.4
4	Throckmorton	Independ.	White	10,201	45.8
5	Bagley	RCA	White	9,772	43.8
6	Smithers	Crusade & RCA	White	9,493	42.5
7	Ford	Crusade & RCA	White	9,295	41.6
8	Herrink	Crusade	White	9,200	41.3
9	Sadler	Crusade & RCA	White	8,960	40.3
10	Johns	Crusade & RCA	White	8,639	38.8
11	Newsome	Crusade	Black	7,903	35.5
12	DeBerry	RCA	White	7,598	34.1
13	Rudd	RCA	White	7,463	33.5
14	Covey	Independ.	White	6,779	30.4
15	Carwile	Independ.	White	6,240	28.0
16	Sullivan	Independ.	White	6,113	27.4
17	Elgert	Independ.	White	5,833	26.2
18	Gray	Independ.	White	1,677	7.5
19	Smith	Independ.	(?)	1,254	5.7
20	Jenkins	Independ.	White	1,184	5.3
21	Brock	Independ.	White	1,117	5.0
22	McGehee	Independ.	White	1,004	4.5
23	Poupore	Independ.	White	893	4.0
24	O'Brien	Independ.	White	861	3.9
25	Howard	Independ.	White	656	2.9

TOTAL VOTE 22,337

3-C

COUNCILMANIC ELECTION – June 10, 1964

Rank	Candidate	Endorsement	Race	Vote	%
1	Sheppard	RF	White	18,042	58.3
2	Cephas	Crusade	Black	16,512	53.4
3	Wheat	RF	White	15,965	51.6
4	Anderson	Independ.	White	15,135	48.9
5	Miller	RF	White	13,886	44.9
6	Crowe	RF	White	13,846	44.8
7	Bagley	Independ.	White	13,333	43.1
8	Throckmorton	Independ.	White	12,860	41.6
9	Habenicht	RF	White	12,780	41.4
10	Hill	RF	White	12,211	39.5
11	Heverle	Independ.	White	12,186	39.4
12	Louthan	RF	White	11,887	38.5
13	Wilson	RF	White	11,747	38.0
14	Smithers	Independ.	White	11,574	37.5
15	Garber	Independ.	White	10,474	33.9
16	Herrink	Independ.	White	8,634	27.9
17	Carwile	Independ.	White	8,228	26.6
18	Covey	Independ.	White	6,983	22.6
19	Eggleston	Independ.	Black	6,396	20.7
20	Charity	Independ.	Black	6,121	19.8
21	McGehee	Independ.	White	1,603	5.2

TOTAL VOTE 30,928

3-D

COUNCILMANIC ELECTION – June 14, 1966

Rank	Candidate	Endorsement	Race	Vote	%
1	Bagley	RF & Crusade	White	23,997	66.2
2	Cephas	RF & Crusade	Black	22,957	63.3
3	Sheppard	RF	White	19,763	54.5
4	Crowe	RF	White	19,102	52.7
5	Mundle	RF & Crusade	Black	18,286	50.4
6	Marsh (H)	Crusade	Black	17,812	49.1
7	Wheat	RF	White	17,803	49.1
8	Habenicht	RF	White	17,066	47.1
9	Carwile	Crusade	White	16,356	45.1
10	Miller	RF	White	15,862	43.8
11	Marsh (R)	RF	White	15,388	42.5
12	Throckmorton	Independ.	White	14,876	41.0
13	Covey	Independ.	White	13,359	36.9
14	House	Crusade	White	13,269	36.6
15	Holt	Independ.	White	7,916	21.8
16	Bradley	Independ.	White	7,663	21.1

TOTAL VOTE 36,248 (100%)

3-E

COUNCILMANIC ELECTION – June 14, 1966

Split Precincts – Precincts 17, 23, 25, 45, 54, 56, 58 and 68

Rank	Candidate	Endorsement	Race	Vote	%
1	Cephas	RF & Crusade	Black	3,057	66.4
2	Bagley	RF & Crusade	White	3,041	66.0
3	H.L. Marsh	Crusade	Black	2,808	61.1
4	Carwile	Crusade	White	2,760	59.9
5	Mundle	RF & Crusade	Black	2,493	54.1
6	Sheppard	RF	White	2,203	47.8
7	Crowe	RF	White	2,130	46.3
8	House	Crusade	White	2,078	45.2
9	Covey	Independ.	White	2,075	45.1
10	Throckmorton	Independ.	White	2,016	43.8
11	Wheat	RF	White	1,848	40.1
12	Habenicht	RF	White	1,776	38.6
13	Miller	RF	White	1,622	36.3
14	R.T. Marsh	RF	White	1,578	34.3
15	Bradley	Independ.	White	1,175	25.5
16	Holt	Independ.	White	1,145	24.9

TOTAL VOTE 4,604

3-F

COUNCILMANIC ELECTION – June 14, 1966

Black Precincts Exclusive of Split Precincts*

Precincts 1, 3, 4, 5, 6, 7, 8, 9, 18, 19, 24, 46, 47, 55, 62, 63, 64, 65, 66, and 67

Rank	Candidate	Endorsement	Race	Vote	%
1	H.L. Marsh	Crusade	Black	11,270	83.4
2	Cephas	RF & Crusade	Black	10,432	77.2
3	Mundle	RF & Crusade	Black	9,329	69.0
4	Carwile	Crusade	White	8,454	62.5
5	Bagley	RF & Crusade	White	7,316	54.1
6	Sheppard	RF	White	5,691	42.1
7	House	Crusade	White	4,589	33.9
8	Covey	Independ.	White	4,545	33.6
9	Crowe	RF	White	4,485	33.2
10	Wheat	RF	White	3,581	26.4
11	Habenicht	RF	White	3,088	22.8
12	Miller	RF	White	3,003	22.2
13	R.T. Marsh	RF	White	2,929	21.7
14	Throckmorton	Independ.	White	2,467	18.3
15	Bradley	Independ.	White	1,426	10.4
16	Holt	Independ.	White	1,170	8.6

TOTAL VOTE 13,515 (100%)

*Does not include split precincts 17, 23, 25, 45, 54, 56, 57, 58 and 68

3-G

COUNCILMANIC ELECTION – June 10, 1968

Rank	Candidate	Endorsement	Race	Vote	%
1	Carwile	Crusade	White	25,361	56.6
2	Bagley	RF	White	24,604	54.9
3	Bliley	RF	White	23,552	52.6
4	Crowe	RF	White	22,631	50.5
5	Carpenter	Crusade	White	22,091	49.3
6	Marsh (H)	Crusade	Black	22,014	49.2
7	Forb	RF	White	21,960	49.0
8	Wheat	RF	White	21,437	47.9
9	Pusey	RF	White	20,556	45.9
10	Cephas	RF	Black	19,675	43.9
11	Mundle	RF	Black	18,845	42.1
12	Randolph, B.	Independ.	White	18,749	41.9
13	Kenney	Crusade	Black	16,372	36.6
14	Randolph, M.	Crusade	Black	15,282	34.1
15	Edwards	Independ.	White	6,190	13.8
16	Bradley *		Black	4,448	9.9

TOTAL VOTE 44,787 (100%)

*withdrew prior to election

3-H

COUNCILMANIC ELECTION – June 10, 1968

Split Precincts

Precincts – 3, 8, 11, 12, 17, 23, 25, 29, 34, 45, 52, 54, 56, 57, 58, 68

Rank	Candidate	Endorsement	Race	Vote	%
1	Carwile	Crusade	White	6,203	66.0
2	Carpenter	Independ.	White	5,411	57.5
3	Marsh	Crusade	Black	5,208	55.4
4	Bagley	RF	White	4,485	47.7
5	Bliley	RF	White	4,334	46.0
6	Kenney	Crusade	Black	4,069	43.3
7	Crowe	RF	White	3,985	42.2
8	Forb	RF	White	3,820	40.6
9	Randolph, M.	Crusade	Black	3,753	39.9
10	Wheat	RF	White	3,642	38.7
11	Pusey	RF	White	3,610	38.4
12	Randolph, B.	Independ.	White	3,561	37.9
13	Cephas	RF	Black	3,476	37.0
14	Mundle	RF	Black	3,285	34.9
15	Edwards	Independ.	White	1,583	16.8
16	Bradley	Independ.	White	1,122	11.9

TOTAL VOTE 9,402

3-I

COUNCILMANIC ELECTION – June 10, 1968

Black Precincts Exclusive of Split Precincts*

Precincts 1, 4, 5, 6, 7, 9, 18, 19, 24, 46, 47, 55, 62, 63, 64, 65, 66 and 67

Rank	Candidate	Endorsement	Race	Vote	%
1	Marsh	Crusade	Black	13,363	91.0
2	Carwile	Crusade	White	13,061	88.9
3	Carpenter	Independ.	White	12,010	85.0
4	Kenney	Crusade	Black	10,759	73.3
5	Randolph, M.	Crusade	Black	9,660	65.8
6	Cephas	RF	Black	3,433	23.4
7	Mundle	RF	Black	2,922	19.9
8	Bagley	RF	White	2,388	16.3
9	Crowe	RF	White	2,284	15.5
10	Bliley	RF	White	1,877	12.8
11	Bradley	Independ.	Black	1,680	11.4
12	Forb	RF	White	1,669	11.4
13	Wheat	RF	White	1,595	10.9
14	Pusey	RF	White	1,574	10.7
15	Randolph, B.	Independ.	White	1,546	10.5
16	Edwards	Independ.	White	529	3.6

TOTAL VOTE 14,666 (100%)

3-J

COUNCILMANIC ELECTION – June 10, 1970

New City Results

Rank	Candidate	Endorsement	Race	Vote	%
1	Carwile	Crusade	White	29,031	56.3
2	Marsh	Crusade	Black	26,012	50.5
3	Carpenter	Crusade	White	25,502	49.5
4	Bliley	RF	White	24,928	48.3
5	Forb	RF	White	21,781	42.3
6	Daniel	RF	White	21,429	41.6
7	Valentine	RF	White	20,977	40.8
8	Rennie	RF	White	19,767	38.4
9	Thompson	RF	White	19,431	37.7
10	Orndorff	RF	White	19,338	37.5
11	Morris	RF	White	19,238	37.4
12	Kenney	Crusade	Black	17,592	34.2
13	Lewis	Independ.	White	16,409	31.9
14	Shiro	Crusade	White	16,140	31.3
15	Taylor	Independ.	White	15,408	29.9
16	Livingston	Crusade	White	13,41!	26.1
17	Holt	Crusade	Black	13,009	25.3
18	McCullen	Crusade	White	12,762	24.8
19	J.R. Johnson	Independ.	White	11,307	22.0
20	Leake	Crusade	White	9,586	18.5
21	Royall	Independ.	White	5,560	10.6
22	Hodges	Independ.	White	4,945	9.6
23	L. Johnson	Independ.	Black	3,067	6.0
24	Weber	Independ.	White	2,139	4.2
25	Collins	Independ.	White	1,847	3.6
26	Hall	Independ.	White	1,586	3.1
27	Habough	Independ.	White	1,278	2.5
28	Scordo	Independ.	White	962	1.9

TOTAL VOTE 51,509 (100%)

3-K

COUNCILMANIC ELECTION – June 10, 1970

Old City Results

Rank	Candidate	Endorsement	Race	Vote	%
1	Carwile	Crusade	White	24,132	57.1
2	Marsh	Crusade	Black	22,738	54.0
3	Carpenter	Crusade	White	21,712	51.4
4	Bliley	TOP	White	20,084	47.5
5	Forb	TOP	White	17,597	41.7
6	Daniel	TOP	White	17,158	40.6
7	Valentine	TOP	White	16,855	39.9
8	Kenney	Crusade	Black	16,261	38.5
9	Rennie	TOP	White	16,128	38.2
10	Morris	TOP	White	15,310	36.3
11	Thompson	TOP	White	14,694	35.0
12	Orndorf	TOP	White	14,531	34.4
13	Lewis	Crusade	White	14,456	34.2
14	Shiro	Independ.	White	12,543	29.7
15	Holt	Crusade	Black	12,400	29.4
16	Taylor	Independ.	White	11,136	26.9
17	McCullen	Crusade	White	10,817	25.7
18	Livingston	Crusade	White	10,705	25.4
19	J. Johnson	Independ.	White	7,967	18.9
20	Leake	Independ.	White	7,039	16.6
21	Hodges	Independ.	White	3,404	8.1
22	L. Johnson	Independ.	Black	2,828	6.5
23	Royall	Independ.	White	2,807	6.4
24	Collins	Independ.	White	1,376	3.3
25	Weber	Independ.	White	1,170	2.8
26	Hall	Independ.	White	1,051	2.5
27	Haboush	Independ.	White	960	2.3
28	Scordo	Independ.	White	736	1.7

TOTAL VOTE 42,248

3-L

COUNCILMANIC ELECTION – June 10, 1970

Split Precincts
(Old City)

Precincts – 3, 7, 8, 12, 17, 60, 61, 68

Rank	Candidate	Endorsement	Race	Vote	%
1	Carwile	Crusade	White	2,278	62.9
2	Marsh	Crusade	Black	2,083	57.6
3	Carpenter	Crusade	White	2,041	56.4
4	Kenney	Crusade	Black	1,594	44.1
5	Shiro	Independ.	White	1,376	38.0
6	Lewis	Crusade	White	1,293	35.7
7	Holt	Crusade	Black	1,242	34.3
8	Taylor	Independ.	White	1,242	34.3
9	McCullen	Crusade	White	1,130	31.2
10	Bliley	TOP	White	1,104	30.5
11	Livingston	Crusade	White	1,100	30.4
12	Forb	TOP	White	1,084	30.0
13	J. Johnson	Independ.	White	1,075	29.7
14	Daniel	TOP	White	1,053	29.1
15	Leake	Independ.	White	944	26.1
16	Rennie	TOP	White	856	23.7
17	Morris	TOP	White	782	21.6
18	Valentine	TOP	White	770	21.3
19	Orndorf	TOP	White	729	20.1
20	Thompson	TOP	White	646	17.9
21	Royall	Independ.	White	549	15.2
22	Hodges	Independ.	White	420	11.6
23	Collins	Independ.	White	281	7.8
24	L. Johnson	Independ.	Black	252	7.0
25	Hall	Independ.	White	158	4.4
26	Haboush	Independ.	White	152	4.2
27	Weber	Independ.	White	150	4.2
28	Scordo	Independ.	White	106	2.9

TOTAL VOTE 3,615 (100%)

3-M

COUNCILMANIC ELECTION – June 10, 1970

Black Precincts Exclusive of Split Precincts
(Old City)

Precincts – 1, 4, 5, 6, 18, 19, 23, 24, 45, 46, 47, 54, 55, 56, 57, 58, 59, 62, 63, 64, 65, 66, 67

Rank	Candidate	Endorsement	Race	Vote	%
1	Marsh	Crusade	Black	14,032	84.3
2	Carwile	Crusade	White	13,826	83.1
3	Kenney	Crusade	Black	11,789	70.7
4	Carpenter	Crusade	White	11,643	69.9
5	Holt	Crusade	Black	9,492	56.9
6	Lewis	Crusade	White	8,253	49.5
7	Shiro	Independ.	White	7,997	48.0
8	McCullen	Crusade	White	7,678	46.1
9	Livingston	Crusade	White	7,445	44.6
10	Bliley	TOP	White	2,541	15.3
11	Taylor	Independ.	White	2,459	14.8
12	Leake	Independ.	White	2,444	14.6
13	L. Johnson	Independ.	Black	1,915	11.5
14	Daniel	TOP	White	1,874	11.2
15	Forb	TOP	White	1,588	9.5
16	J. Johnson	Independ.	White	1,107	6.6
17	Rennie	TOP	White	1,056	6.3
18	Valentine	TOP	White	998	6.0
19	Morris	TOP	White	909	5.5
20	Thompson	TOP	White	749	4.5
21	Orndorf	TOP	White	682	4.1
22	Hodges	Independ.	White	386	2.3
23	Royall	Independ.	White	325	2.0
24	Scordo	Independ.	White	302	1.8
25	Collins	Independ.	White	290	1.7
26	Hall	Independ.	White	198	1.2
27	Haboush	Independ.	White	187	1.1
28	Weber	Independ.	White	136	0.8

TOTAL VOTE 15,940 (100%)

3-N

COUNCILMANIC ELECTION – June 10, 1970

White Precincts Exclusive of Split Precincts
(Old City)

Precincts – 2, 9, 10, 11, 13, 14, 15, 16, 20, 21, 22, 25-44, 48-53

Rank	Candidate	Endorsement	Race	Vote	%
1	Bliley	TOP	White	16,439	72.4
2	Valentine	TOP	White	16,087	66.5
3	Forb	TOP	White	14,925	65.8
4	Daniel	TOP	White	14,231	62.7
5	Rennie	TOP	White	14,216	62.7
6	Morris	TOP	White	13,619	60.0
7	Thompson	TOP	White	13,299	58.6
8	Orndorf	TOP	White	13,120	57.9
9	Carpenter	Crusade	White	8,028	35.4
10	Carwile	Crusade	White	8,028	35.4
11	Taylor	Independ.	White	7,435	32.7
12	Marsh	Crusade	Black	6,623	29.2
13	J. Johnson	Independ.	White	5,785	25.5
14	Lewis	Crusade	White	4,910	21.6
15	Leake	Independ.	White	3,651	16.1
16	Shiro	Independ.	White	3,170	14.0
17	Kenney	Crusade	Black	2,878	12.7
18	Hodges	Independ.	White	2,598	11.4
19	Livingston	Crusade	White	2,160	9.5
20	McCullen	Crusade	White	2,009	8.9
21	Royall	Independ.	White	1,933	8.5
22	Holt	Crusade	Black	1,666	7.3
23	Weber	Independ.	White	884	3.9
24	Collins	Independ.	White	805	3.6
25	Hall	Independ.	White	695	3.1
26	L. Johnson	Independ.	Black	661	2.9
27	Haboush	Independ.	White	621	2.7
28	Scordo	Independ.	White	328	1.4

TOTAL VOTE 22,693 (100%)

Plaintiff's Exhibit 4 – Merger Vote, Richmond-Henrico, December 13, 1961.

MERGER OF HENRICO AND RICHMOND

Vote – December 13, 1961

Black Precincts – 100% vote No
Mixed Precincts – 62% vote No
White Precincts – 95.7% vote Yes

Precinct	For	Against	Character	Results
1	22	130	Black	No
2	202	42	White	Yes
3	56	80	Mixed	No
4	22	151	Black	No
5	26	121	Black	No
6	47	71	Mixed	No
7	45	178	Mixed	No
8	90	92	White	No/Yes
9	52	95	White	No
10	108	28	White	Yes
11	151	48	White	Yes
12	201	38	White	Yes
13	253	43	White	Yes
14	338	44	White	Yes
15	434	44	White	Yes
16	247	97	White	Yes
17	88	32	White	Yes
18	47	327	Black	No
19	51	168	Black	No
20	382	19	White	Yes
21	276	25	White	Yes
22	255	42	White	Yes
23	102	81	White	Yes
24	77	331	Black	No
25	312	238	Mixed	Yes
26	155	31	White	Yes
27	185	28	White	Yes

Precinct	For	Against	Character	Results
28	227	44	White	Yes
29	232	44	White	Yes
30	364	42	White	Yes
31	383	34	White	Yes
32	751	25	White	Yes
33	460	40	White	Yes
34	455	62	White	Yes
35	462	28	White	Yes
36	512	55	White	Yes
37	347	14	White	Yes
38	552	68	White	Yes
39	421	30	White	Yes
40	231	22	White	Yes
41	177	33	White	Yes
42	207	28	White	Yes
43	185	40	White	Yes
44	231	23	White	Yes
45	175	78	Mixed	Yes
46	48	390	Black	No
47	85	156	Black	No
48	495	64	White	Yes
49	543	60	White	Yes
50	338	35	White	Yes
51	330	43	White	Yes
52	230	92	Mixed	Yes
53	392	28	White	Yes
54	137	179	Mixed	No
55	51	363	Mixed	No
56	343	34	White	Yes
57	215	111	White	Yes
58	211	67	White	Yes
59	210	41	White	Yes
60	193	53	White	Yes
61	174	35	White	Yes
62	34	276	Black	No
63	19	98	Black	No
64	44	310	Black	No
65	15	210	Black	No
66	34	201	Black	No
67	34	313	Black	No
68	281	205	Mixed	No

G.1. Plaintiff's Exhibit 5 (a) – Election analysis 1966.

AN ANALYSIS OF THE VOTING IN THE COUNCILMANIC ELECTION, JUNE 14, 1966

There was a considerable change in the voting pattern in the 1966 councilmanic election as compared with the 1964 election. The 1966 total of 36,248 was an increase of 5,320 votes over the 1964 total of 30,928. This was an increase of approximately 17 per cent.

The increase in the Negro vote was 5,928, or 60 per cent, from 1962 to 1964. The white vote actually dropped approximately 600 votes, or 3 per cent.

The Negro vote was 43 per cent of the total vote in 1966 as compared with only 32 per cent of the total in 1964.

Even with this change in the voting pattern, the Negro community was not able to give any candidate sufficient votes to elect him without support from the white community. However, neither did the white community give any candidate sufficient votes for election without support from the Negro community.

While this 1966 vote was the highest councilmanic vote on record, it did not compare with the 1964 presidential election when 63,964 votes were cast. It is estimated that this total represented approximately 37,400 white votes and 25,500 Negro votes. Even this total is less than 50 per cent of the adult population of the city.

Richmond Forward Strength

In the Fan District most RF candidates obtained a larger percentage of the vote than in 1964, but Throck-

morton ran ahead of Mundle. In the Far West End Richmond Forward candidates increased their majority substantially over the 1964 majority, but here again Throckmorton ran ahead of Mundle.

The RF candidates did better in 1966 on the Southside and in the Ginter Park-Barton Heights area. The RF candidates took eight of the top 9 spots in the Ginter Park area and 7 of the top 9 spots in the Southside precincts.

RF candidates did better in the Mid-West End precincts and Highland Park in 1966 than they did in 1964, but these are still unfavorable precincts.

Negro Precincts

It is estimated that the Crusade for Voters endorsement was worth approximately 4,000 votes. This was the difference between the vote given House and Holt in the Negro precincts. Crusade support for Carwile increased his percentage of the Negro vote from 49 per cent in 1964 to 63 per cent in 1966.

Bagley received 8,534 Negro votes with both Crusade and Labor support as compared with Sheppard who received 6,637 without this support. The Richmond Forward organization in the Negro community produced from 3,400 to 6,600 votes for RF candidates who did not receive Crusade support. The weakest RF candidate in the Negro community received 22 per cent of the vote in 1966 as compared with 14 per cent for the weakest RF candidate in 1964.

Number of Candidates Per Ballot

The average number of candidates voted for per ballot in the white community was 8.0 candidates in 1966 as compared with 8.3 candidates in 1964.

In the Negro community the number of candidates per ballot dropped to 6.0 in 1966 from 6.3 in 1964.

Bagley

Bagley led the ticket in all white areas of the city except Highland Park. He received 64 per cent of his vote from the white community and 36 per cent from the Negro community. He had the support of RF, labor and the Crusade. Bagley increased his percentage of the total vote from 43 per cent in 1964 to 66 per cent in 1966.

Cephas

With the support of all organizations except the Taxpayers Association, Cephas received 10,783 votes from the white community and 12,174 votes from the Negro community, 47 percent of his support came from the white community. He increased his percentage of the total vote from 53 per cent in 1964 to 63 per cent in 1966. He ran very strong in the favorable RF areas with 60 per cent of the vote in the Fan District and 59 per cent of the vote in the Far West End.

Sheppard

Sheppard's percentage of the total vote declined from 58 per cent in 1964 to 55 per cent in 1966. She received

6,637 votes from the Negro community without the support of the Crusade. This accounted for one-third of her total vote.

Crowe

Crowe's support throughout the city increased considerably – from 45 per cent in 1964 to 53 per cent in 1966. He ran well in all areas and received 5,231 votes in the Negro community, which accounted for 27 per cent of his total vote.

Mundle

Mundle received 7,400 votes from the white community and 10,880 from the Negro community. 41 per cent of his support came from the white community. In the strong RF precincts he received 43 per cent of the total white vote.

H. L. Marsh

Henry L. Marsh received 4,667 white votes, or 26 per cent of his total vote. He led the ticket in all areas of the Negro community. In the white community he did poorest in the strong RF precincts in the Fan District and the Far West End with 19 and 17 per cent of the total vote respectively.

Wheat

Wheat's percentage of the total vote dropped from 52 per cent in 1964 to 49 per cent in 1966. His share of the vote increased in the white community, but dropped in the Negro community. He received only 24 per cent of his total vote from the Negro community.

Habenicht

Habenicht received 79 per cent of his vote from the white community and 21 per cent from the Negro community. He received 3,650 votes in the Negro community. He ran very close to Wheat throughout the white community.

Carwile

Carwile received 6,457 votes from the white community and 9,859 from the Negro community. 40 per cent of his vote was white and 60 per cent Negro. He ran strong in the unfavorable RF areas. For instance he received 50 per cent of the Highland Park vote. He was supported by the Taxpayers Association, labor and the Crusade. His percentage of the Negro vote increased from 49 per cent in 1964, without Crusade support, to 63 per cent in 1966, with Crusade support.

Miller

Miller received 22 per cent of his votes from the Negro community and 78 per cent from the white community.

His total Negro vote was 3,500. He ran stronger in the white community in 1966 than in 1964, but his percentage of the Negro vote dropped to 22 per cent in 1966 from 31 per cent in 1964. Miller's percentage of the total vote was 44 per cent in 1966 as compared with 45 per cent in 1964 when he ran fifth.

R. T. Marsh

Robert T. Marsh's vote was very close, but slightly behind Miller's vote throughout the community. He received 11,971 votes from the white community and 3,417 from the Negro community.

Throckmorton

Throckmorton's percentage of the total vote declined only six-tenths of one percent from 1964 to 1966. He ran eighth in 1964 and twelfth in 1966. The difference was in a drop from 33 per cent of the Negro vote in 1964 to 18 per cent in 1966. He ran stronger in favorable RF precincts in 1966 than he did in 1964.

Referendum

The staggered terms issue was defeated in the Negro community, where only 13 per cent of the voters cast ballots in favor of it. This issue received a favorable vote of 58 per cent in the white community.

TABLE 1
Councilmanic Election - June 14, 1966
Total Vote by Candidates

Rank	Candidate	1966 Vote Total	1966 Vote (%)	1964 Vote Total	1964 Vote (%)
1	Bagley	23,997	(66.2%)	13,333	(43.2%)
2	Cephas	22,957	(63.3%)	16,512	(53.4%)
3	Sheppard	19,763	(54.5%)	18,042	(58.4%)
4	Crowe	19,102	(52.7%)	13,846	(44.8%)
5	Mundle	18,286	(50.4%)		
6	H. L. Marsh	17,812	(49.1%)		
7	Wheat	17,803	(49.1%)	15,965	(51.6%)
8	Habenicht	17,066	(47.1%)	12,780	(41.3%)
9	Carwile	16,356	(45.1%)	8,228	(26.8%)
10	Miller	15,862	(43.8%)	13,886	(44.9%)
11	R. T. Marsh	15,388	(42.5%)		
12	Throckmorton	14,876	(41.0%)	12,860	(41.6%)
13	Covey	13,359	(36.9%)	6,983	(22.6%)
14	House	13,269	(36.6%)		
15	Holt	7,916	(21.8%)		
16	Bradley	7,663	(21.1%)		
Referendum					
	FOR	13,412	(37.0%)		
	AGAINST	21,760	(60.0%)		
Total Vote		36,248	(100.0%)	30,928	(100.0%)

TABLE 2
Councilmanic Election - June 14, 1966
Vote in Fan District - Precincts 2, 20, 21, 22, 43 and 44

Rank	Candidate	Total Vote	% of Total
1	Bagley	1722	77.4%
2	Crowe	1682	75.6%
3	Wheat	1672	75.2%
4	Habenicht	1592	71.6%
5	Sheppard	1567	70.5%
6	Miller	1533	68.9%
7	R. T. Marsh	1497	67.3%
8	Cephas	1335	60.0%
9	Throckmorton	1183	53.2%
10	Mundle	946	42.5%
11	House	640	28.8%
12	Covey	576	25.9%
13	Carwile	529	23.8%
14	Holt	520	23.4%
15	Bradley	504	22.6%
16	H. L. Marsh	411	18.5%
Referendum			
	FOR	1433	64.4%
	AGAINST	757	34.0%
Total Vote		2224	100.0%

TABLE 3
Councilmanic Election - June 14, 1966
Vote in Mid West End - Precincts 26, 27, 28, 29, 41 and 42
(Area Between Boulevard and Belt Line)

Rank	Candidate	Total Vote	% of Total
1	Bagley	1275	72.2%
2	Throckmorton	1237	70.1%
3	Crowe	1085	61.5%
4	Habenicht	1045	59.2%
5	Wheat	1034	58.6%
6	Miller	931	52.8%
7	Sheppard	921	52.2%
8	House	861	48.8%
9	R. T. Marsh	850	48.2%
10	Cephas	771	43.7%
11	Covey	744	42.2%
12	Carwile	709	40.2%
13	Holt	701	39.7%
14	Bradley	667	37.8%
15	Mundle	459	26.0%
16	H. L. Marsh	432	24.5%
Referendum			
	FOR	803	45.5%
	AGAINST	928	52.6%
Total Vote		1765	100.0%

TABLE 4
Councilmanic Election - June 14, 1966
Far West End - Precincts 30 through 40
(Area West of Belt Line)

Rank	Candidate	Total Vote	% of Vote
1	Bagley	5400	80.1%
2	Crowe	5232	77.6%
3	Wheat	5130	76.1%
4	Habenicht	5012	74.3%
5	Sheppard	5007	74.2%
6	Miller	4786	71.0%
7	R. T. Marsh	4589	68.0%
8	Cephas	3986	59.1%
9	Throckmorton	3276	48.6%
10	Mundle	2919	43.3%
11	House	2089	31.0%
12	Covey	1906	28.3%
13	Holt	1487	22.0%
14	Carwile	1455	21.6%
15	Bradley	1302	19.3%
16	H. L. Marsh	1139	16.9%
Referendum			
	FOR	4612	68.4%
	AGAINST	2065	30.6%
Total Vote		6745	100.0%

TABLE 5
Councilmanic Election - June 14, 1966
Northside (Ginter Park and Barton Heights) - Precincts 48 through 53

Rank	Candidate	Total Vote	% of Vote
1	Bagley	2506	73.7%
2	Crowe	2338	68.8%
3	Habenicht	2318	68.2%
4	Wheat	2286	67.2%
5	Sheppard	2276	66.9%
6	Miller	2065	60.7%
7	R. T. Marsh	2038	59.9%
8	Throckmorton	1959	57.6%
9	Cephas	1784	52.5%
10	Mundle	1207	35.5%
11	Covey	1195	35.1%
12	House	1142	33.6%
13	Holt	940	28.5%
14	Carwile	928	27.3%
15	Bradley	888	26.1%
16	H. L. Marsh	758	22.2%
Referendum			
	FOR	1895	55.7%
	AGAINST	1462	43.0%
Total Vote		3400	100.0%

TABLE 6
Councilmanic Election - June 14, 1966
Northside (Highland Park) - Precincts 59, 60 and 61

Rank	Candidate	Total Vote	% of Vote
1	Throckmorton	666	79.2%
2	Bradley	575	68.3%
3	Bagley	540	64.2%
4	House	475	56.5%
5	Covey	462	54.9%
6	Holt	457	54.3%
7	Crowe	434	51.6%
8	Habenicht	428	50.9%
9	Carwile	417	49.6%
10	Wheat	414	49.2%
11	Sheppard	379	45.1%
12	Miller	362	43.0%
13	R. T. Marsh	356	42.3%
14	Cephas	243	28.9%
15	H. L. Marsh	210	25.0%
16	Mundle	126	15.0%
Referendum			
	FOR	280	33.3%
	AGAINST	544	64.7%
Total Vote		841	100.0%

TABLE 7
Councilmanic Election - June 14, 1966
Southside - Precincts 10 through 16

Rank	Candidate	Total Vote	% of Vote
1	Bagley	2197	69.6%
2	Throckmorton	2072	65.7%
3	Covey	1856	58.9%
4	Wheat	1838	58.3%
5	Habenicht	1789	56.7%
6	Sheppard	1718	54.5%
7	Crowe	1716	54.4%
8	Miller	1560	49.5%
9	R. T. Marsh	1551	49.2%
10	Holt	1496	47.4%
11	House	1395	44.2%
12	Cephas	1349	42.8%
13	Bradley	1126	35.7%
14	Carwile	1104	35.0%
15	Mundle	807	25.6%
16	H. L. Marsh	784	24.9%
Referendum			
	FOR	1430	45.4%
	AGAINST	1694	53.7%
Total Vote		3154	100.0%

TABLE 8
Councilmanic Election - June 14, 1966
Negro Precincts Exclusive of Split Precincts*
Precincts 1, 3, 4, 5, 6, 7, 8, 9, 18, 19, 24, 46, 47, 55, 62, 63, 64, 65, 66, and 67

Rank	Candidate	Total Vote*	% of Vote
1	H. L. Marsh	11,270	83.4%
2	Cephas	10,432	77.2%
3	Mundle	9,329	69.0%
4	Carwile	8,454	62.5%
5	Bagley	7,316	54.1%
6	Sheppard	5,691	42.1%
7	House	4,589	33.9%
8	Covey	4,545	33.6%
9	Crowe	4,485	33.2%
10	Wheat	3,581	26.4%
11	Habenicht	3,088	22.8%
12	Miller	3,003	22.2%
13	R. T. Marsh	2,929	21.7%
14	Throckmorton	2,467	18.3%
15	Bradley	1,426	10.5%
16	Holt	1,170	8.6%
Referendum			
	FOR	1,765	13.0%
	AGAINST	10,686	79.0%
Total Vote		13,515*	100.0%

*Does not include split precincts 17, 23, 25, 45, 54, 56, 57, 58 and 68.

TABLE 9

Councilmanic Election - June 14, 1966

Estimated White and Negro Vote in Split Precincts

Precincts 17, 23, 25, 45, 54, 56, 57, 58, and 68

Rank	Candidate	Total Vote	Estimated Negro Vote	Estimated White Vote
1	Cephas	3,057	1,742	1,315
2	Bagley	3,041	1,218	1,823
3	H. L. Marsh	2,808	1,875	933
4	Carwile	2,760	1,405	1,355
5	Mundle	2,493	1,551	942
6	Sheppard	2,203	946	1,257
7	Crowe	2,130	746	1,384
8	House	2,078	762	1,316
9	Covey	2,075	755	1,320
10	Throckmorton	2,016	411	1,605
11	Wheat	1,848	593	1,255
12	Habenicht	1,776	544	1,232
13	Miller	1,622	499	1,123
14	R. T. Marsh	1,578	488	1,090
15	Bradley	1,175	236	939
16	Holt	1,145	193	952
Referendum				
	FOR	1,194	292	902
	AGAINST	3,292	1,776	1,516
Total Vote		4,604	2,248	2,356

TABLE 10

Councilmanic Election - June 14, 1966

Analysis of Vote by Candidates

	Bagley		Cephas		Sheppard	
White Precincts						
West End						
Fan District	1722	(7.1%)	1335	(5.8%)	1567	(7.9%)
Mid West End	1275	(5.3%)	771	(3.4%)	921	(4.7%)
Far West End	5400	(22.5%)	3986	(17.3%)	5007	(25.3%)
Northside						
Ginter Park-Barton Heights	2506	(10.4%)	1784	(7.8%)	2276	(11.5%)
Highland Park	540	(2.3%)	243	(1.1%)	379	(1.9%)
Southside	2917	(9.2%)	1349	(5.9%)	1718	(8.7%)
Split (9) Estimated	1823	(7.6%)	1315	(5.7%)	1257	(6.4%)
Total White	15,463	(64.4%)	10,783	(47.0%)	13,125	(66.4%)
Negro Precincts						
Central (4)	930		1271		699	
South (4)	923		1107		691	
West (3)	1557		2110		1143	
North (3)	1069		1928		1233	
East (6)	2837		4016		1925	
Split (9)	1218		1742		946	
Total Negro	8534	(35.6%)	12,174	(53.0%)	6637	(33.6%)
Total Vote	23,997	(100.0%)	22,957	(100.0%)	19,762	(100.0%)

	Crowe		Mundle		H. L. Marsh	
White Precincts						
West End						
Fan District	1682	(8.8%)	946	(5.2%)	411	(2.3%)
Mid West End	1085	(5.7%)	459	(2.5%)	432	(2.4%)
Far West End	5232	(27.4%)	2919	(16.0%)	1139	(6.4%)
Northside						
Ginter Park-Barton Heights	2338	(12.2%)	1207	(6.6%)	758	(4.3%)
Highland Park	434	(2.3%)	126	(0.7%)	210	(1.2%)
Southside	1716	(9.0%)	807	(4.4%)	784	(4.4%)
Split (9) Estimated	1384	(7.2%)	942	(5.1%)	933	(5.2%)
Total White	13,871	(72.6%)	7406	(40.5%)	4667	(26.2%)
Negro Precincts						
Central (4)	542		1063		1312	
South (4)	550		1002		1157	
West (3)	903		1850		2257	
North (3)	1007		1841		2054	
East (6)	1483		3573		4490	
Split (9)	746		1551		1875	
Total Negro	5231	(27.4%)	10,880	(59.5%)	13,145	(73.8%)
Total Vote	19,102	(100.0%)	18,286	(100.0%)	17,812	(100.0%)

TABLE 10 (continued)
Councilmanic Election - June 14, 1966
Analysis of Vote by Candidates

	Wheat		Habenicht		Carwile	
White Precincts						
West End						
Fan District	1672	(9.4%)	1592	(9.3%)	529	(3.2%)
Mid West End	1034	(5.8%)	1045	(6.1%)	709	(4.3%)
Far West End	5130	(28.8%)	5012	(29.4%)	1455	(8.9%)
Northside						
Ginter Park-Barton Heights	2286	(12.8%)	2318	(13.6%)	928	(5.7%)
Highland Park	414	(2.3%)	428	(2.5%)	417	(2.5%)
Southside	1838	(10.3%)	1789	(10.5%)	1104	(6.8%)
Split (9) Estimated	1255	(7.1%)	1232	(7.2%)	1355	(8.3%)
Total White	13,629	(76.5%)	13,416	(78.6%)	6497	(39.7%)
Negro Precincts						
Central (4)	423		359		1114	
South (4)	450		426		925	
West (3)	735		621		1668	
North (3)	789		681		1389	
East (6)	1184		1019		3358	
Split (9)	593		544		1405	
Total Negro	4174	(23.5%)	3650	(21.4%)	9859	(60.3%)
Total Vote	17,803	(100.0%)	17,066	(100.0%)	16,356	(100.0%)

	Miller		R. T. Marsh		Throckmorton	
White Precincts						
West End						
Fan District	1533	(9.6%)	1497	(9.7%)	1183	(8.0%)
Mid West End	931	(5.9%)	850	(5.5%)	1237	(8.3%)
Far West End	4786	(30.2%)	4589	(29.8%)	3276	(22.0%)
Northside						
Ginter Park-Barton Heights	2065	(13.0%)	2038	(13.2%)	1959	(13.1%)
Highland Park	362	(2.3%)	356	(2.3%)	666	(4.5%)
Southside	1560	(9.8%)	1551	(10.1%)	2072	(13.9%)
Split (9) Estimated	1123	(7.1%)	1090	(7.1%)	1605	(10.8%)
Total White	12,360	(77.9%)	11,971	(77.8%)	11,998	(80.6%)
Negro Precincts						
Central (4)	385		429		425	
South (4)	395		406		478	
West (3)	586		559		466	
North (3)	593		620		395	
East (6)	1044		915		703	
Split (9)	499		488		411	
Total Negro	3502	(22.1%)	3417	(22.2%)	2878	(19.4%)
Total Vote	15,862	(100.0%)	15,388	(100.0%)	14,876	(100.0%)

TABLE 10 (continued)
Councilmanic Election - June 14, 1966
Analysis of Vote by Candidates

	Bradley	
White Precincts		
West End		
Fan District	504	(6.6%)
Mid West End	667	(8.7%)
Far West End	1302	(17.0%)
Northside		
Ginter Park-Barton Heights	888	(11.6%)
Highland Park	575	(7.5%)
Southside	1126	(14.7%)
Split (9) Estimated	939	(12.3%)
Total White	6001	(78.3%)
Negro Precincts		
Central (4)	228	
South (4)	294	
West (3)	284	
North (3)	190	
East (6)	430	
Split (9)	236	
Total Negro	1662	(21.7%)
Total Vote	7663	(100.0%)

TABLE 10 (continued)
Councilmanic Election - June 14, 1966
Analysis of Vote by Candidates

	Covey		House		Holt	
White Precincts						
West End						
Fan District	576	(4.3%)	640	(4.8%)	520	(6.6%)
Mid West End	744	(5.6%)	861	(6.5%)	701	(8.9%)
Far West End	1906	(14.3%)	2089	(15.7%)	1487	(18.8%)
Northside						
Ginter Park-Barton Heights	1195	(8.9%)	1142	(8.6%)	940	(11.9%)
Highland Park	462	(3.5%)	475	(3.6%)	457	(5.8%)
Southside	1856	(13.9%)	1395	(10.5%)	1496	(18.9%)
Split (9) Estimated	1320	(9.9%)	1316	(9.9%)	952	(12.0%)
Total White	8059	(60.3%)	7918	(59.7%)	6553	(82.8%)
Negro Precincts						
Central (4)	563		623		188	
South (4)	639		645		289	
West (3)	961		939		228	
North (3)	705		701		138	
East (6)	1677		1681		327	
Split (9)	755		762		193	
Total Negro	5300	(39.7%)	5351	(40.3%)	1363	(17.2%)
Total Vote	13,359	(100.0%)	13,269	(100.0%)	7916	(100.0%)

TABLE 11
Comparison of Voting by Sections of City
(Adjusted for Split Precincts)

White Precincts		
West End		
Fan District	2,224	
Mid West End	1,765	
Far West End	6,745	
Northside		
Ginter Park-Barton Heights	3,400	
Highland Park	841	
Southside	3,154	
Split Precincts	2,356	
Est. Total White Vote	20,485	56.5%
Negro Precincts		
Central	1,655	
South	1,590	
West	2,656	
North	2,356	
East	5,258	
Split	2,248	
Est. Total Negro Vote	15,763	43.5%
Total Vote	36,248	100.0%

TABLE 12
Comparison of Voting by Precincts 1964 and 1966

Precinct	1964 Councilmanic Vote	1964 Presidential Vote	1966 Councilmanic Vote
West End			
Fan District			
2	309	607	282
20	499	849	487
21	414	659	414
22	368	760	387
43	309	648	319
44	344	647	335
Total	2243	4170	2224
Mid West End			
26	242	454	242
27	271	539	252
28	355	644	340
29	385	747	363
41	263	560	258
42	330	639	310
Total	1846	3583	1765
Far West End			
30	594	1150	580
31	528	850	488
32	921	1244	942
33	608	988	647
34	667	1136	646
35	582	863	599
36	692	1285	706
37	467	677	441
38	739	1350	787
39	568	939	535
40	340	732	374
Total	6706	11,214	6745

Precinct	1964 Councilmanic Vote	1964 Presidential Vote	1966 Councilmanic Vote
Northside			
Ginter Park-Barton Heights			
48	742	1266	720
49	752	1214	745
50	463	765	449
51	456	827	456
52	427	911	531
53	520	931	499
Total	3360	5914	3400
Highland Park			
59	311	592	287
60	309	583	297
61	267	531	257
Total	887	1706	841
Southside			
10	223	461	231
11	340	635	326
12	391	784	351
13	450	770	446
14	562	1258	587
15	664	1166	704
16	467	1643	509
Total	3097	6717	3154
Total White Precincts	18,139	33,304	18,129

TABLE 12 (continued)

Precinct	1964 Councilmanic Vote	1964 Presidential Vote	1966 Councilmanic Vote
Split Precincts			
17	184	458	226
23	269	649	338
25	838	1505	978
45	368	853	463
54	425	655	467
56	417	775	361
57	458	834	533
58	422	833	440
68	666	1513	798
Total Split Precincts	4047	8075	4604
Negro Community			
Central			
1	305	665	419
3	238	577	321
4	360	1276	686
5	221	560	229
Total	1124	3078	1655
South			
6	195	749	360
7	379	1007	540
8	330	870	378
9	241	545	312
Total	1145	3171	1590
West			
18	634	1625	1082
19	424	1059	676
24	637	1254	898
Total	1695	3938	2656

Precinct	1964 Councilmanic Vote	1964 Presidential Vote	1966 Councilmanic Vote
North			
46	766	1504	1028
47	396	688	533
55	671	1072	795
Total	1833	3264	2356
East			
62	683	2173	1208
63	198	866	385
64	659	1808	1174
65	375	1357	670
66	404	1329	779
67	626	1601	1042
Total	2945	9134	5258
Total Negro Precincts	8742	22,585	13,515
Total Vote	30,928	63,964	36,248

Tables

Detailed tables of this analysis of the 1966 councilmanic vote by areas and by candidates will be found in the attached tables.

2. Plaintiff's Exhibit 5(b) – Election Analysis 1968

COUNCILMANIC ELECTION
JUNE 11, 1968

AN ANALYSIS OF THE VOTING IN THE COUNCILMANIC ELECTION JUNE 11, 1968

The most significant factors in the voting pattern in the Councilmanic Election in 1968, as compared with previous Councilmanic elections were the increase in the total vote and the sharp division between the white and the Negro vote.

The 1968 total of 44,880 was an increase of 8,632 over the previous high of 36,248 reached in 1966. The white vote increased 4,574 in 1968 as compared with a decrease of approximately 600 in 1966. The Negro vote increased 4,058 in 1968 as compared with an increase of 5,320 in 1966.

The General Trend

The voting pattern continued to edge towards an even balance between the white and the Negro vote. The white vote was 55.8% of the total in 1968 and the Negro vote 44.2% of the total. In 1966 the proportion had been

white 56.5% and Negro 43.5%. This 1966 proportion had been a major shift from the previous election year of 1964 when the white vote was 68.2% and the Negro vote 31.8%.

The total Negro vote of 19,821 appears to have been just about the same as that cast in the November 1967 General Assembly election. For example, in the large east end Negro precinct #64 the vote was slightly higher – 1515 in 1967 and 1644 in 1968, in the large northside Negro precinct #46 the vote was slightly lower – 1128 in 1967 and 1073 in 1968, while in the large west end Negro precinct #18 the vote was the identical 1114 in each election.

The Richmond Forward Candidates

There was a sharp division in the candidates supported in the white and Negro precincts. The Richmond Forward candidates were in eight of the first nine places in every white area of the city except Highland Park. In Highland Park Messrs. Mundle and Cephas slipped out of the first nine. Just the opposite occurred in the Negro areas in which the five candidates supported by the Crusade for Voters won the top five places by a substantial margin over the rest of the field.

The individual RF candidates generally increased their support in the white areas by 10% or more over 1966. The white vote for the six winning RF candidates ranged from 74 to 85% and was virtually enough to elect them.

Messrs. Mundle and Cephas received almost 60% of the white vote, an increase of about 7% for Mr. Cephas and about 23% for Mr. Mundle. But these latter two candidates lost large amounts of Negro support received

in 1966, falling from 77.2% to 24% and from 70% to 20.5% of the Negro vote, respectively. Thus they were defeated although they received a larger white vote than ever before.

Similarly the white RF candidates lost a drastic amount of their Negro vote. Mr. Bagley, who had the Crusade endorsement in 1966, slipped from 54.1% to 17.2% of the Negro vote. Mr. Crowe, who had not had the endorsement in 1966, still slipped from 33.2% to 16.1% of the Negro vote; likewise, Mr. Wheat, without the endorsement of the Crusade in 1966, still slipped from 26.5% to 11.1% of the Negro vote.

Howard Carwile

Mr. Carwile led the ticket because of the sharp increase in the size of his Negro vote from 62.5% in 1966 to 87.2% in 1968. His white vote increased only from 31.7% to 32.2%. This broke the rule that no white candidate could receive more than 60% of the Negro vote and supported the analysis that the Negro voter was now more concerned about "activism" than color.

The Impact of National Events

Several national events and their impact on Richmond may have contributed to the Negro voting pattern this year. At the outset of the campaign, Dr. Martin Luther King was assassinated. A few weeks after this assassination the Poor People's March came through Richmond and was well received. In the week following their departure from Richmond, a sample ticket called the Poor People's Ticket was widely distributed in Negro

areas of Richmond. The obvious suggestion was that persons supporting the Poor People's March and Dr. King should support the Poor People's Ticket.

The five candidates endorsed on the Poor People's Ticket were the candidates subsequently endorsed by the Crusade for Voters. This ticket was apparently well enough received to justify a second distribution of it a few weeks before the election.

Finally, the assassination of Senator Robert Kennedy occurred in the final days of the campaign.

If these events did influence the Negro voter, then it would be a mistake to read the results as evidence of a great increase in the strength of the Crusade for Voters. The fact that Messrs. Crowe and Wheat lost significant Negro support – Mr. Crowe slipping from 33.2% to 16.1% of the Negro vote and Mr. Wheat slipping from 26.5% to 11.1% of the Negro vote – although they were not supported by the Crusade in either campaign, suggests that there were factors other than the Crusade endorsement which affected the Negro voting pattern in this election.

National events, and particularly the unrest occurring throughout the Nation, may have affected the white voter also. The disturbances in Richmond following Dr. King's assassination obviously upset many white voters. Concern over this national and local unrest, and an absence of strong white opposition candidates, probably increased the support given the Richmond Forward candidates in the white areas. Hopefully, this increased support also indicated approval of the Richmond Forward record. The sharp increase in the number of white voters would have been difficult to achieve without such approval.

"Race" as an Issue

This analysis of the voting patterns in terms of white and Negro voters suggests that "race" was a much greater issue than it actually appears to have been. The small support given Mr. Edwards by the white voters (21.2%) and Mr. Bradley by the Negro voters (12.1%) suggests that a man's race had little influence on most voters. This is reinforced by the large white vote for Messrs. Cephas and Mundle, and the large Negro vote for Messrs. Carwile and Carpenter.

The white and Negro voter appear to have voted differently because they were concerned about different issues. Recognizing that such conclusions can only be conjecture and over-simplification at best, it is suggested that the white voter was concerned mainly about the stability of society, while the Negro voter was concerned mainly about the problems of the poor. This is not to suggest for a moment that both groups were not concerned about the poor and a stable society, but their priorities appear to have been different. Nor is this to suggest that all candidates were not concerned about the poor and a stable society, but in the voter's mind, they appear to have been identified as candidates for either one or the other goal.

The Open Housing Referendum

A not too surprising 25% of the white voters supported the open housing referendum. Combined with the Negro vote, this would have been sufficient to pass this referendum except for the fact that 33% of the Negro voters abstained from voting. These Negro voters who

abstained thought open housing would be defeated and abstained to minimize the effect of such a defeat. It appears certain that they would have voted for open housing if they had voted on the issue, and, in retrospect, that their votes would have been sufficient to pass the referendum. The total vote was 34% voting "For" and 46% voting "Against" and 20% abstaining.

J. Plaintiff's Exhibit 24 – Report to Aldhizer Commission, with Exhibits, by C. B. Mattox, Jr., City Attorney, February 5, 1969.
(This exhibit has not been printed, but has been reproduced separately and filed together with this Appendix.)

K. Plaintiff's Exhibit 25 – Booklet entitled "Expand Richmond's Boundaries" – Report to the Richmond Boundary Expansion.
(This exhibit has not been printed, but has been reproduced separately and filed together with this Appendix.)

ANALYSIS OF VOTING

(The recent Presidential election makes possible an analysis and comparison of the voting in this and the City Council elections since Richmond Forward was founded.)

VOTES

	City Council		Presidential	
	White	**Negro**	**White**	**Negro**
1964	21,093	9,835	37,339	26,625
1966	20,429	15,819		
1968	25,059	19,821	39,122	28,605

PERCENTAGE

	White	**Negro**	**White**	**Negro**
1964	68.2	31.8	58.3	41.7
1966	56.4	43.6		
1968	55.8	44.2	57.8	42.2

Note:

1. The increase in the white vote in the 1968 City Council election after relative stability in 1966.

2. The increase in the Negro vote in the City Council elections in both 1966 and 1968.

3. The comparatively smaller increase in both the white and Negro vote in the Presidential election in 1968.

4. The similarity of the percentages of white and Negro vote in both City Council and Presidential elections since the poll tax requirement for voting was removed. (Presidential election – 1964; City Council election – 1966).

Estimate of Crusade for Voters strength:

1968 City Council	**% of Negro Vote Received**
1. Marsh	91.0
2. Carwile	88.9
3. Carpenter	85.0
4. Kenney	73.3
5. Randolph, M.	65.8

1968 Presidential	**% of Negro Vote Received**
Humphrey	97.9
Nixon	2.0

1968 Congressional	**% of Negro Vote Received**
Satterfield	19.2
Hansen	80.8
Hansen vote less Republicans (determined by subtracting Nixon vote)	78.5

Comment:

1. The Hansen vote represents mostly voters who switched from a Democratic Presidential vote to a Republican Congressional vote. The only explanation for such a large crossing of party lines to vote for a political unknown appears to be the Crusade endorsement.

2. The top three in the City Council election obviously had personal support in addition to their Crusade support. It looks like Messrs. Kenney and Randolph did not.

3. The Crusade influence appears to increase with the size of the vote and to range from about 65 to 75%.

TABLE 1
Councilmanic Election – June 11, 1968
TOTAL VOTE BY CANDIDATES

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)	1964 Vote Total	1964 Vote (%)
1	Carwile	25,361	(56.6%)	16,356	(45.1%)	8,228	(26.8%)
2	Bagley	24,604	(54.9%)	23,997	(66.2%)	13,333	(43.2%)
3	Bliley	23,552	(52.6%)				
4	Crowe	22,631	(50.5%)	19,102	(52.7%)	13,846	(44.8%)
5	Carpenter	22,091	(49.3%)				
6	Marsh, H.L.	22,014	(49.2%)	17,812	(49.1%)		
7	Forb	21,960	(49.0%)				
8	Wheat	21,437	(47.9%)	17,803	(49.1%)	15,965	(51.6%)
9	Pusey	20,556	(45.9%)				
10	Cephas	19,675	(43.9%)	22,957	(63.3%)	16,512	(53.4%)
11	Mundle	18,845	(42.1%)	18,286	(50.4%)		
12	Randolph, B.	18,749	(41.9%)				
13	Kenney	16,372	(36.6%)				
14	Randolph, M.	15,282	(34.1%)				
15	Edwards	6,190	(13.8%)				
16	Bradley	4,448	(9.9%)				
Total Vote		44,787	(100.0%)	36,248	(100.0%)	30,928	(100.0%)
Increase		8,539	(23.6%)	5,320			

TABLE 2
Councilmanic Election – June 11, 1968
Vote in Fan District – Precincts 2, 20, 21, 22, 43 and 44

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)
1	Bagley	2,352	(85.3%)	1,722	(77.4%)
2	Bliley	2,322	(84.2%)		
3	Crowe	2,228	(80.8%)	1,682	(75.6%)
4	Wheat	2,202	(79.9%)	1,672	(75.2%)
5	Forb	2,108	(76.5%)		
6	Pusey	2,107	(76.4%)		
7	Randolph, B.	1,820	(66.0%)		
8	Mundle	1,809	(65.6%)	946	(42.5%)
9	Cephas	1,798	(65.2%)	1,335	(60.0%)
10	Carwile	771	(28.0%)	529	(23.8%)
11	Carpenter	717	(26.0%)		
12	Marsh, H.L.	475	(17.2%)	411	(18.5%)
13	Edwards	474	(17.2%)		
14	Randolph, M.	276	(10.0%)		
15	Bradley	257	(9.3%)		
16	Kenney	237	(8.6%)		
Total Vote		2,757	(100.0%)	2,224	(100.0%)
Increase		533	(24.0%)		

TABLE 3
Councilmanic Election – June 11, 1968
Vote in Mid West End – Precincts 26, 27, 28, 29, 41 and 42
(Area Between Boulevard and Belt Line)

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)
1	Bliley	1,859	(86.4%)		
2	Bagley	1,755	(81.6%)	1,275	(72.2%)
3	Forb	1,550	(72.1%)		
4	Crowe	1,548	(72.0%)	1,085	(61.5%)
5	Wheat	1,524	(70.9%)	1,034	(58.6%)
6	Pusey	1,436	(66.7%)		
7	Randolph, B.	1,369	(63.6%)		
8	Cephas	1,132	(52.6%)	771	(43.7%)
9	Mundle	1,097	(51.0%)	459	(26.0%)
10	Carpenter	880	(40.9%)		
11	Carwile	843	(39.2%)	709	(40.2%)
12	Edwards	547	(25.4%)		
13	Marsh, H.L.	369	(17.2%)	432	(24.5%)
14	Bradley	236	(11.0%)		
15	Randolph, M.	204	(9.5%)		
16	Kenney	196	(9.1%)		
Total		2,151	(100.0%)	1,765	(100.0%)
Increase		386	(21.9%)		

TABLE 4
Councilmanic Election – June 11, 1968
Far West End – Precincts 30 through 40
(Area West of Belt Line)

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)
1	Bagley	7,433	(85.9%)	5,400	(80.1%)
2	Bliley	7,244	(83.7%)		
3	Forb	7,182	(83.0%)		
4	Crowe	7,042	(81.4%)	5,232	(77.6%)
5	Wheat	6,984	(80.7%)	5,130	(76.1%)
6	Pusey	6,607	(76.4%)		
7	Cephas	5,730	(66.2%)	3,986	(59.1%)
8	Mundle	5,668	(65.5%)	2,919	(43.3%)
9	Randolph, B.	5,611	(64.9%)		
10	Carpenter	2,126	(24.6%)		
11	Carwile	1,952	(22.6%)	1,455	(21.6%)
12	Marsh	1,226	(14.2%)	1,139	(16.9%)
13	Edwards	1,169	(13.5%)		
14	Randolph, M.	617	(7.1%)		
15	Bradley	479	(5.5%)		
16	Kenney	467	(5.4%)		
Total		8,650	(100.0%)	6,745	(100.0%)
Increase		1,905	(28.9%)		

TABLE 5
Councilmanic Election – June 11, 1968
Northside (Ginter Park and Barton Heights) – Precincts 48 through 53*

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)
1	Bagley	3,656	(81.2%)	2,506	(73.7%)
2	Bliley	3,609	(80.2%)		
3	Crowe	3,471	(77.1%)	2,338	(68.8%)
4	Wheat	3,392	(75.4%)	2,286	(67.2%)
5	Forb	3,331	(74.0%)		
6	Pusey	3,265	(72.6%)		
7	Randolph, B.	2,782	(61.8%)		
8	Cephas	2,747	(61.0%)	1,784	(52.5%)
9	Mundle	2,732	(60.7%)	1,207	(35.5%)
10	Carpenter	1,595	(35.4%)		
11	Carwile	1,405	(31.2%)	928	(27.3%)
12	Marsh	943	(21.0%)	758	(22.2%)
13	Edwards	788	(17.5%)		
14	Randolph, M.	587	(13.0%)		
15	Kenney	538	(12.0%)		
16	Bradley	302	(6.7%)		
Total		4,500	(100.0%)	3,400	(100.0%)
Increase		1,100	(32.4%)		

*52 is split, 12 appears split, 16 appears split slightly

TABLE 6
Councilmanic Election – June 11, 1968
Northside (Highland Park) – Precincts 59, 60 and 61

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)
1	Bagley	766	(75.8%)	540	(64.2%)
2	Bliley	746	(73.8%)		
3	Forb	661	(65.4%)		
4	Randolph, B.	630	(62.3%)		
5	Wheat	616	(60.9%)	414	(49.2%)
6	Crowe	611	(60.4%)	434	(51.6%)
7	Pusey	607	(60.0%)		
8	Carwile	575	(56.9%)	417	(49.6%)
9	Edwards	393	(38.9%)		
10	Carpenter	388	(38.4%)		
11	Cephas	383	(37.9%)	243	(28.9%)
12	Mundle	366	(36.2%)	126	(15.0%)
13	Marsh	257	(25.4%)	210	(25.0%)
14	Randolph, M.	157	(15.5%)		
15	Kenney	156	(15.4%)		
16	Bradley	141	(13.9%)		
Total		1,011	(100.0%)	841	(100.0%)
Increase		170	(20.2%)		

TABLE 7
Councilmanic Election – June 11, 1968
Southside – Precincts 10 through 16*

Rank	Candidate	1968 Vote Total	(%)	1966 Vote Total	(%)
1	Bagley	3,618	(79.6%)	2,197	(69.6%)
2	Bliley	3,518	(77.4%)		
3	Forb	3,315	(73.0%)		
4	Crowe	3,126	(68.8%)	1,716	(54.4%)
5	Wheat	3,096	(68.1%)	1,838	(58.3%)
6	Pusey	3,023	(66.5%)		
7	Randolph, B.	2,845	(62.6%)		
8	Mundle	2,336	(51.4%)	807	(25.6%)
9	Cephas	2,021	(44.5%)	1,349	(42.8%)
10	Carwile	1,901	(41.8%)	1,104	(35.0%)
11	Carpenter	1,752	(38.6%)		
12	Edwards	1,344	(29.6%)		
13	Marsh	1,072	(23.6%)	784	(24.9%)
14	Kenney	663	(14.6%)		
15	Randolph, M.	663	(14.6%)		
16	Bradley	504	(11.1%)		
Total		4,543	(100.0%)	3,154	(100.0%)
Increase		1,389	(44.0%)		

*12 appears split, 16 appears split slightly

TABLE 8
Councilmanic Election – June 11, 1968
Negro Precincts Exclusive of Split Precincts*
Precincts 1, 3, 4, 5, 6, 7, 8, 9, 18, 19, 24, 46, 47
55, 62, 63, 64, 65, 66 and 67

Rank	Candidate	1968 Vote Total	(%)	1966 Vote Total	(%)
1	Marsh	13,867	(89.6%)	11,270	(83.4%)
2	Carwile	13,657	(88.2)	8,454	(62.5%)
3	Carpenter	12,482	(80.6%)		
4	Kenney	11,141	(72.0%)		
5	Randolph, M.	10,035	(64.8%)		
6	Cephas	3,710	(24.0%)	10,432	(77.2%)
7	Mundle	3,188	(20.6%)	9,329	(69.0%)
8	Bagley	2,736	(17.7)	7,316	(54.1%)
9	Crowe	2,596	(16.8%)	4,485	(33.2%)
10	Bliley	2,233	(14.4%)		
11	Forb	1,934	(12.5%)		
12	Wheat	1,854	(12.0%)	3,581	(26.4%)
13	Pusey	1,849	(11.9%)		
14	Randolph, B.	1,821	(11.8%)		
15	Bradley	1,788	(11.5%)		
16	Edwards	660	(4.3%)		
Total		15,483	(100.0%)	13,515*	(100.0%)
Increase		1,968	(14.6%)		

*Does not include split precincts 17, 23, 25, 45, 54, 56, 57, 58 and 68.

TABLE 8 (Revised)
Councilmanic Election – June 11, 1968
Negro Precincts Exclusive of Split Precincts*
Precincts 1, 4, 5, 6, 7, 9, 18, 19, 24, 46, 47, 55, 62, 63, 64, 65, 66 and 67

Rank	Candidate	1968 Vote Total	1968 Vote (%)	1966 Vote Total	1966 Vote (%)
1	Marsh	13,363	(91.0)	11,270	(83.4)
2	Carwile	13,061	(88.9)	8,454	(62.5)
3	Carpenter	12,010	(85.0)		
4	Kenney	10,759	(73.3)		
5	Randolph, M.	9,660	(65.8)		
6	Cephas	3,433	(23.4)	10,432	(77.2)
7	Mundle	2,922	(19.9)	9,329	(69.0)
8	Bagley	2,388	(16.3)	7,316	(54.1)
9	Crowe	2,284	(15.5)	4,485	(33.2)
10	Bliley	1,877	(12.8)		
11	Bradley	1,680	(11.4)		
12	Forb	1,669	(11.4)		
13	Wheat	1,595	(10.9)	3,581	(26.4)
14	Pusey	1,574	(10.7)		
15	Randolph, B.	1,546	(10.5)		
16	Edwards	529	(3.6)		
Total		14,666*	(100.0)	13,515*	(100.0)
Referendum:	For	6,662	(45.4)		
	Against	3,151	(21.5)		
	Abstain	4,853	(33.1)		

*Does not include split precincts 3, 8, 11, 12, 17, 23, 25, 29, 34, 52, 54, 56, 57, 58 and 68

(Precincts 3 and 8 are omitted from 1966 list because they appear more accurately classified as split)

TABLE 8A
Councilmanic Election – June 11, 1968
Estimated White and Negro Vote in Split Precincts
Precincts 3, 8, 11, 12, 17, 23, 25, 29, 34, 45, 52, 54, 56, 57, 58, 68
(Precincts 11, 12, 29, 34, 52 are added to 1966 listing)
Precincts 3 and 8 are transferred from all Negro precincts

Rank	Candidate	Estimated Negro Vote	Estimated White Vote	Total Vote
1	Carwile	4,601	1,602	6,203
2	Carpenter	3,935	1,476	5,411
3	Marsh	4,469	739	5,208
4	Bagley	1,020	3,465	4,485
5	Bliley	777	3,557	4,334
6	Kenney	3,369	700	4,069
7	Crowe	912	3,073	3,985
8	Forb	638	3,182	3,820
9	Randolph, M.	3,196	557	3,753
10	Wheat	610	3,032	3,642
11	Pusey	665	2,945	3,610
12	Randolph, B.	715	2,843	3,561
13	Cephas	1,335	2,141	3,476
14	Mundle	1,135	2,150	3,285
15	Edwards	392	1,191	1,583
16	Bradley	711	411	1,122

TABLE 8B
Councilmanic Election – June 11, 1968
Estimated Total White and Negro Vote

WHITE

Rank	Candidate	Estimated Vote 1968	Estimated Vote 1966	Percentage 1968	Percentage 1966
1	Bagley	21,194	15,463	84.6	75.5
2	Bliley	20,898		83.4	
3	Forb	19,653		78.4	
4	Crowe	19,435	13,871	77.5	67.7
5	Wheat	19,232	13,629	76.7	66.5
6	Pusey	18,477		73.7	
7	Randolph, B.	16,384		65.4	
8	Cephas	14,907	10,783	59.5	52.6
9	Mundle	14,788	7,406	59.0	36.1
10	Carwile	8,071	6,497	32.2	31.7
11	Carpenter	7,622		30.4	
12	Edwards	5,305		21.2	
13	Marsh	4,632	4,667	18.5	22.8
14	Randolph, M.	2,426		9.7	
15	Kenney	2,244		8.9	
16	Bradley	2,050		8.2	

Total White Vote:	1968	1966	1964
	25,059	20,485	21,093
Percentage of Total Vote:	55.8	56.5	68.2

NEGRO

Rank	Candidate	Estimated Vote 1968	Estimated Vote 1966	Percentage 1968	Percentage 1966
1	Marsh	17,382	13,145	90.0	83.3
2	Carwile	17,290	9,859	87.2	62.5
3	Carpenter	14,469		73.0	
4	Kenney	14,128		71.3	
5	Randolph, M.	12,856		64.9	
6	Cephas	4,768	12,174	24.0	77.2
7	Mundle	4,057	10,880	20.5	70.0
8	Bagley	3,410	8,534	17.2	54.1
9	Crowe	3,196	5,231	16.1	33.2
10	Bliley	2,654		13.4	
11	Bradley	2,392		12.1	
12	Randolph, B.	2,365		11.9	
13	Forb	2,307		11.6	
14	Pusey	2,279		11.5	
15	Wheat	2,205	4,174	11.1	26.5
16	Edwards	921		4.6	

Total Negro Vote:	1968	1966	1964
	19,821	15,763	9,835
Percentage of Total Vote:	44.2	43.5	31.8

TABLE 8C
Councilmanic Election – June 11, 1968
Estimated Percentage of Total Negro Vote by Area

Rank	Candidate	Central (1, 3*, 4, 5, 45*)	South (6, 7, 8*, 9, 11*, 12*)	West (17*, 18, 19, 23, 24, 25*, 29*, 34*)	North (46, 47, 52*, 54*, 55, 56*, 57*, 58*)	East (62, 63, 64, 65, 66, 67, 68*)
1	Marsh	80.5	73.6	92.7	92.5	93.6
2	Carwile	80.7	79.9	94.9	80.4	91.1
3	Carpenter	74.4	62.2	72.3	74.7	78.7
4	Kenney	68.1	57.6	70.0	65.3	80.3
5	Randolph, M.	60.7	53.5	67.1	61.8	69.7
6	Cephas	23.7	23.0	22.0	34.4	18.8
7	Mundle	21.3	19.9	18.5	28.1	16.5
8	Bagley	18.0	26.5	15.6	21.1	12.8
9	Crowe	19.7	20.1	15.1	21.3	11.3
10	Bliley	16.4	23.9	14.0	13.3	9.5
11	Bradley	13.1	14.5	16.2	11.4	9.4
12	Randolph, B.	11.5	25.1	11.7	10.1	9.8
13	Forb	11.4	20.1	11.6	13.2	8.4
14	Pusey	12.1	16.7	10.9	14.7	8.1
15	Wheat	11.2	17.1	10.1	13.9	8.2
16	Edwards	4.2	12.7	7.0	2.4	2.7

*Indicates split precinct.

TABLE 8D
Councilmanic Election – June 11, 1968
Analysis of Referendum Vote

	NEGRO Vote	%	WHITE Vote	%	TOTAL Vote	%
For:	8,890	44.8	6,361	25.4	15,251	34.0
Against:	4,408	22.2	16,302	65.0	20,710	46.0
Abstain:	6,523	33.0	2,396	9.6	8,919	20.0
	19,821	100.0	25,059	100.0	44,880	100.0

TABLE 9
Councilmanic Election – June 11, 1968

		Percentage by Precinct						
Candidate:	% of Total Vote (44,880)	1 (441)	2 (356)	3 (340)	4 (711)	5 (193)	6 (424)	7 (651)
Bagley	54.9	17.2	84.2	42.1	15.7	27.5	24.5	17.9
Bliley	52.6	14.3	84.2	45.6	13.1	26.4	22.9	18.6
Bradley	9.9	15.2	8.1	14.7	10.4	9.8	17.2	12.7
Carpenter	49.3	84.1	21.6	52.6	67.9	63.2	63.7	71.3
Carwile	56.6	68.7	23.9	69.7	90.5	79.3	85.6	89.2
Cephas	43.9	26.3	66.5	37.1	19.9	30.6	23.1	22.1
Crowe	50.5	21.3	84.2	42.6	14.9	30.6	18.9	15.1
Edwards	13.8	3.9	10.9	10.3	2.8	4.1	7.8	6.6
Forb	49.0	11.6	81.9	32.6	10.5	20.2	25.7	13.4
Kenney	36.6	70.7	8.9	46.2	69.0	56.9	62.7	69.4
Marsh	49.2	85.7	17.4	60.6	88.4	80.3	78.5	84.5
Mundle	42.1	23.1	66.8	37.4	17.9	25.9	20.0	22.7
Pusey	45.9	10.9	79.2	34.7	10.5	23.8	16.5	11.4
Randolph, B.	41.9	10.2	69.6	32.9	9.8	20.7	21.9	14.1
Randolph, M.	34.1	58.0	11.5	44.9	63.8	56.5	58.0	66.9
Wheat	47.9	12.2	83.9	34.7	8.5	20.7	17.9	12.7
% Increase (Decrease)		5.2	26.2	5.9	3.6	(15.7)	17.8	20.6
% Voting		53.1	48.2	34.4	48.8	37.4	43.6	55.4

TABLE 9 – Part 2
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	8 (477)	9 (384)	10 (368)	11 (393)	12 (493)	13 (526)	14 (871)
Bagley	54.9	42.9	32.6	89.1	71.7	65.3	84.9	85.4
Bliley	52.6	42.1	25.5	84.2	73.5	65.7	87.8	87.6
Bradley	9.9	12.2	15.6	13.6	12.2	11.8	7.9	9.7
Carpenter	49.3	61.4	60.9	34.5	46.3	44.8	31.4	32.6
Carwile	56.6	75.2	82.8	39.1	49.1	49.3	30.0	33.2
Cephas	43.9	31.6	24.9	58.7	41.2	48.1	55.5	61.9
Crowe	50.5	35.0	25.7	73.4	56.5	54.8	77.4	80.6
Edwards	13.8	20.1	14.1	30.2	36.9	26.4	33.8	26.5
Forb	49.0	32.3	21.9	75.3	63.1	54.9	77.6	76.7
Kenney	36.6	47.2	53.4	16.3	22.6	30.2	5.1	9.2
Marsh	49.2	62.5	75.5	21.5	31.0	41.4	12.3	19.5
Mundle	42.1	29.1	21.6	53.8	39.4	42.8	54.9	60.0
Pusey	45.9	32.9	16.7	72.8	57.2	51.5	75.1	74.9
Randolph, B.	41.9	34.2	23.7	62.5	62.8	60.0	64.6	68.3
Randolph, M.	34.1	46.5	53.1	13.3	18.3	26.6	7.9	9.9
Wheat	47.9	29.6	19.8	74.2	60.3	53.5	76.8	78.3
% Increase (Decrease)		26.2	23.1	59.3	20.5	40.5	17.9	48.4
% Voting		48.5	53.7	59.1	51.4	37.3	60.3	51.4

TABLE 9 – Part 3
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	15 (943)	16 (949)	17 (288)	18 (1,114)	19 (630)	20 (578)	21 (525)
Bagley	54.9	86.8	71.2	51.7	12.8	19.7	36.7	86.6
Bliley	52.6	87.0	57.8	47.9	7.6	19.9	82.3	86.1
Bradley	9.9	7.2	16.1	16.7	13.7	13.8	9.3	8.6
Carpenter	49.3	27.7	53.9	50.3	67.1	67.1	24.6	24.6
Carwile	56.6	28.6	63.6	76.0	94.0	92.2	21.8	27.4
Cephas	43.9	57.9	34.6	28.8	21.9	26.7	71.4	71.4
Crowe	50.5	77.1	55.6	36.8	12.6	24.1	83.9	81.7
Edwards	13.8	24.5	33.5	24.9	1.9	6.3	11.9	17.5
Forb	49.0	82.8	69.7	34.7	8.9	17.6	78.2	78.3
Kenney	36.6	5.7	21.4	37.8	75.2	67.9	10.6	7.6
Marsh	49.2	12.6	32.9	50.3	92.7	89.5	19.2	17.9
Mundle	42.1	59.7	31.3	22.2	19.7	24.4	71.9	72.5
Pusey	45.9	76.1	53.7	37.5	9.2	15.9	81.3	75.9
Randolph, B.	41.9	66.5	53.7	43.4	7.2	17.1	65.2	66.8
Randolph, M.	34.1	7.7	22.0	34.4	72.7	63.5	7.9	8.8
Wheat	47.9	76.0	54.7	34.4	7.2	17.5	82.3	80.9
% Increase (Decrease)		33.9	86.4	27.4	2.9	(6.8)	18.7	26.8
% Voting		66.2	41.2	44.7	58.1	50.9	53.9	60.0

TABLE 9 – Part 4
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	22 (490)	23 (385)	24 (859)	25 (1,102)	26 (283)	27 (339)	28 (457)
Bagley	54.9	84.9	36.6	16.5	40.9	85.9	86.4	82.9
Bliley	52.6	85.1	34.3	14.8	39.5	83.4	87.3	85.8
Bradley	9.9	9.4	16.6	18.2	10.8	12.4	7.9	9.6
Carpenter	49.3	27.9	61.0	68.7	62.3	34.3	43.6	34.3
Carwile	56.6	32.0	75.3	89.0	70.2	34.9	33.3	38.3
Cephas	43.9	56.7	26.2	22.2	37.5	53.3	55.7	59.5
Crowe	50.5	78.9	39.9	14.9	37.3	75.9	76.9	75.9
Edwards	13.8	22.2	15.6	4.3	11.2	27.2	20.6	21.2
Forb	49.0	71.8	28.0	12.2	35.0	72.1	72.5	76.6
Kenney	36.6	9.2	52.7	69.3	47.9	7.8	6.5	7.7
Marsh	49.2	13.3	65.4	91.7	68.4	19.4	16.2	14.4
Mundle	42.1	55.7	25.2	17.3	36.0	48.4	55.4	57.1
Pusey	45.9	73.8	29.3	10.4	34.1	69.6	68.4	69.6
Randolph, B.	41.9	71.8	34.0	11.5	31.3	66.1	63.9	66.3
Randolph, M.	34.1	8.2	47.5	64.5	46.5	6.7	9.7	7.4
Wheat	47.9	75.1	27.3	10.5	31.7	73.8	72.5	73.5
% Increase (Decrease)		26.6	13.9	(4.3)	12.6	16.9	34.5	34.4
% Voting		52.8	49.9	60.7	57.0	49.4	52.7	58.5

TABLE 9 – Part 5
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	29 (368)	30 (838)	31 (654)	32 (1,142)	33 (822)	34 (802)	35 (732)
Bagley	54.9	69.8	83.9	85.5	92.2	88.0	77.4	88.5
Bliley	52.6	73.1	83.9	80.9	90.0	84.9	77.1	83.7
Bradley	9.9	14.4	6.8	6.1	3.6	4.5	8.3	3.0
Carpenter	49.3	57.3	28.9	21.1	14.9	24.7	35.9	15.9
Carwile	56.6	57.9	24.3	24.2	11.9	22.4	33.8	10.8
Cephas	43.9	39.7	59.9	64.1	76.9	66.9	59.4	71.0
Crowe	50.5	58.1	78.9	81.8	81.8	83.7	74.4	87.8
Edwards	13.8	36.1	18.5	11.9	7.5	13.1	16.3	9.3
Forb	49.0	62.5	79.6	84.4	86.5	85.9	73.0	87.1
Kenney	36.6	15.8	6.6	3.7	2.3	3.4	13.1	2.0
Marsh	49.2	21.2	15.0	12.4	8.3	13.6	26.5	9.4
Mundle	42.1	35.9	62.9	49.5	78.2	66.8	58.8	71.8
Pusey	45.9	52.9	71.8	75.7	84.6	79.6	70.1	79.9
Randolph, B.	41.9	59.5	64.1	80.7	70.9	63.5	58.7	62.8
Randolph, M.	34.1	14.9	8.5	4.3	4.0	5.1	15.3	3.6
Wheat	47.9	57.3	78.6	81.6	88.0	83.7	73.4	86.7
% Increase (Decrease)		1.4	44.5	34.0	10.6	27.0	24.1	22.2
% Voting		41.9	56.2	67.0	84.9	69.2	73.9	69.6

TABLE 9 – Part 6
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	36 (897)	37 (547)	38 (1,049)	39 (687)	40 (480)	41 (327)	42 (377)
Bagley	54.9	88.0	94.8	80.8	85.8	79.4	84.4	81.4
Bliley	52.6	91.0	87.2	76.0	83.1	81.0	80.4	80.4
Bradley	9.9	6.9	2.4	5.3	7.4	6.9	11.0	10.9
Carpenter	49.3	29.7	14.6	28.4	24.7	31.7	38.2	37.7
Carwile	56.6	27.6	8.9	31.8	23.6	26.5	34.9	34.2
Cephas	43.9	65.7	82.1	55.4	67.1	62.9	47.4	58.1
Crowe	50.5	82.1	91.8	76.0	82.4	78.9	74.0	71.6
Edwards	13.8	14.9	4.9	19.1	13.4	18.7	27.5	21.2
Forb	49.0	81.7	87.6	83.6	86.3	75.4	71.6	75.8
Kenney	36.6	7.5	3.1	6.0	4.8	7.1	7.9	8.8
Marsh	49.2	15.9	10.2	14.0	13.2	19.4	18.0	14.9
Mundle	42.1	64.7	83.5	56.2	65.3	62.3	52.9	54.6
Pusey	45.9	77.5	87.4	67.9	73.5	72.5	68.2	71.9
Randolph, B.	41.9	64.3	54.7	59.9	65.6	68.1	66.4	59.9
Randolph, M.	34.1	7.5	3.8	8.5	7.9	10.4	9.5	8.5
Wheat	47.9	80.7	92.9	69.3	79.2	77.1	77.4	71.3
% Increase (Decrease)		27.1	24.0	33.3	28.4	28.3	26.7	21.6
% Voting		58.2	65.4	63.4	65.8	52.3	49.4	52.1

TABLE 9 – Part 7
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	43 (398)	44 (410)	45 (568)	46 (1,073)	47 (578)	48 (935)	49 (1,007)
Bagley	54.9	83.4	84.9	46.1	19.0	23.9	88.2	90.1
Bliley	52.6	81.9	85.6	44.7	13.3	18.7	88.6	89.7
Bradley	9.9	12.1	8.5	12.7	10.9	11.9	5.8	5.5
Carpenter	49.3	30.4	27.1	50.2	67.0	70.4	33.9	28.7
Carwile	56.6	36.4	27.8	64.2	85.7	83.6	24.2	24.4
Cephas	43.9	56.0	60.3	39.8	35.5	39.6	64.6	65.0
Crowe	50.5	76.6	78.5	45.2	21.9	25.4	83.4	85.1
Edwards	13.8	20.3	17.6	11.8	2.4	4.5	18.4	21.3
Forb	49.0	73.9	74.9	42.8	12.6	15.7	79.9	84.4
Kenney	36.6	7.0	7.1	41.5	66.4	63.1	5.5	4.5
Marsh	49.2	17.3	18.0	53.9	95.2	87.5	15.3	11.3
Mundle	42.1	56.8	67.6	38.2	23.2	31.5	67.0	64.7
Pusey	45.9	72.3	74.6	39.8	11.5	18.2	77.8	81.0
Randolph, B.	41.9	59.8	61.9	32.9	9.5	13.7	66.1	68.5
Randolph, M.	34.1	10.0	9.8	40.3	53.1	61.8	7.1	4.9
Wheat	47.9	76.1	80.7	41.5	12.8	19.7	80.9	85.8
% Increase (Decrease)		24.8	22.4	22.7	4.4	8.4	29.8	35.2
% Voting		45.7	53.1	52.8	60.7	60.0	58.1	63.1

TABLE 9 – Part 8
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	50 (564)	51 (569)	52 (746)	53 (679)	54 (538)	55 (841)	56 (592)
Bagley	54.9	89.4	87.5	49.7	81.1	26.4	21.3	30.9
Bliley	52.6	88.1	86.6	46.3	79.6	21.4	12.2	27.2
Bradley	9.9	6.7	6.5	8.7	7.8	11.3	11.4	10.9
Carpenter	49.3	34.4	30.7	54.1	31.8	70.4	78.2	71.3
Carwile	56.6	24.5	29.7	57.6	28.9	78.9	86.4	78.5
Cephas	43.9	63.3	66.4	43.3	63.3	32.9	33.7	33.3
Crowe	50.5	83.7	82.9	47.9	78.3	24.7	20.3	30.4
Edwards	13.8	20.4	20.0	12.7	16.6	4.3	2.0	7.6
Forb	49.0	78.5	78.5	45.7	73.9	20.3	12.9	25.2
Kenney	36.6	3.2	3.7	42.7	12.4	57.9	65.5	65.9
Marsh	49.2	12.4	12.7	51.2	23.8	85.5	92.5	77.4
Mundle	42.1	63.5	63.3	40.5	63.7	32.5	29.8	30.2
Pusey	45.9	80.5	77.7	45.2	71.8	20.8	13.9	26.5
Randolph, B.	41.9	65.9	72.0	38.1	60.1	17.8	9.6	26.0
Randolph, M.	34.1	7.6	5.6	40.3	13.9	57.2	65.0	58.9
Wheat	47.9	81.7	81.7	43.1	76.9	18.6	13.2	26.5
% Increase (Decrease)		25.6	24.8	40.5	36.0	15.2	5.8	63.9
% Voting		59.9	56.2	60.3	52.7	63.7	81.2	55.5

TABLE 9 – Part 9
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	57 (735)	58 (560)	59 (340)	60 (347)	61 (324)	62 (1,559)	63 (484)
Bagley	54.9	22.3	56.0	67.9	82.4	76.8	9.7	12.4
Bliley	52.6	17.4	53.0	63.2	80.4	77.8	7.7	13.0
Bradley	9.9	12.5	15.5	11.8	14.1	16.0	7.1	8.0
Carpenter	49.3	70.9	59.6	42.1	34.9	38.3	78.8	72.9
Carwile	56.6	85.8	64.8	61.5	59.3	49.4	92.6	93.8
Cephas	43.9	27.5	34.8	35.9	36.6	41.4	16.5	19.8
Crowe	50.5	18.8	45.2	52.3	63.9	65.1	10.1	10.3
Edwards	13.8	4.6	26.2	36.8	41.2	38.6	2.6	4.5
Forb	49.0	15.2	48.0	56.8	70.6	68.8	8.3	7.2
Kenney	36.6	66.3	40.3	22.4	10.4	13.6	84.6	76.4
Marsh	49.2	86.2	47.3	35.6	20.5	20.1	95.4	90.6
Mundle	42.1	24.1	32.5	31.8	34.6	42.6	14.4	15.7
Pusey	45.9	15.2	45.5	51.2	65.4	53.6	7.5	7.9
Randolph, B.	41.9	14.3	43.4	59.1	69.4	58.0	8.5	14.3
Randolph, M.	34.1	62.6	37.5	23.2	10.4	12.9	73.3	70.0
Wheat	47.9	16.2	42.3	53.5	62.8	66.7	7.1	7.0
% Increase (Decrease)		37.9	27.3	18.9	17.2	26.1	29.1	25.7
% Voting		61.4	53.0	47.6	48.9	47.0	63.6	49.8

TABLE 9 – Part 10
Councilmanic Election – June 11, 1968

Percentage by Precinct

Candidate:	% of Total Vote (44,880)	64 (1,644)	65 (858)	66 (925)	67 (1,297)	68 (1,015)
Bagley	54.9	13.0	16.1	15.9	12.3	46.9
Bliley	52.6	9.5	13.3	13.4	6.6	45.3
Bradley	9.9	10.1	10.6	8.6	10.8	13.0
Carpenter	49.3	76.9	61.9	68.8	78.6	61.8
Carwile	49.3	91.9	92.5	86.9	89.7	71.4
Cephas	43.9	18.6	23.8	20.3	17.7	25.5
Crowe	50.5	11.1	15.1	13.3	10.2	37.0
Edwards	13.8	2.4	2.7	2.5	2.9	23.9
Forb	49.0	8.0	10.8	8.6	8.0	39.7
Kenney	36.6	82.8	78.1	72.2	80.3	47.6
Marsh	49.2	96.0	91.7	89.9	93.4	52.3
Mundle	42.1	16.2	20.7	18.7	15.7	25.5
Pusey	45.9	8.6	10.1	9.7	6.6	39.7
Randolph, B.	41.9	9.9	10.0	10.2	9.5	37.8
Randolph, M.	34.1	69.1	67.8	65.1	70.4	38.6
Wheat	47.9	8.3	11.3	9.9	7.1	35.3
% Increase (Decrease)		40.0	28.1	18.7	24.5	27.2
% Voting		62.2	51.1	59.4	61.5	50.7

HENRICO COUNTY

JAMES RIVER

CITY OF RICHMOND

HENRICO

JAMES COUNTY

ANNEXATION LINE

ROBIOUS

MIDLOTHIAN

MANCHESTER

DALE DIST

CHESTERFIELD

CENTRALIA

KINGSLAND

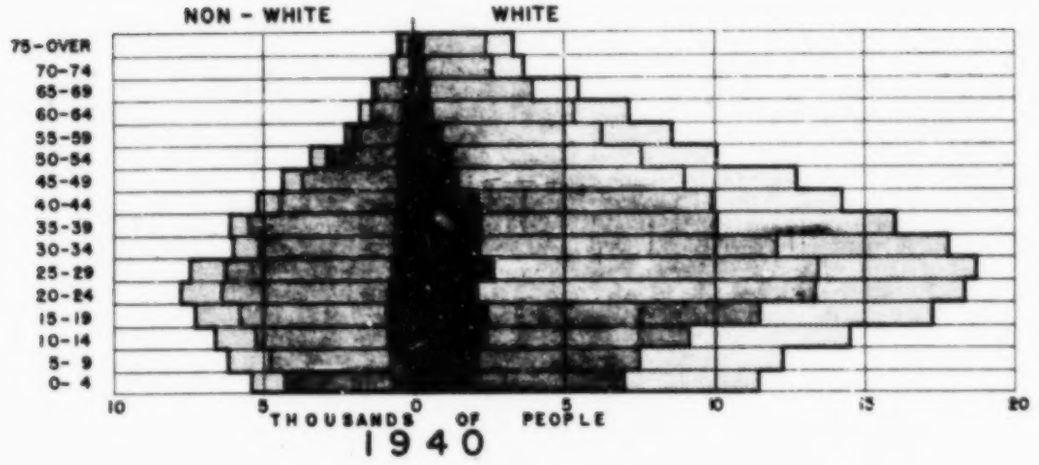
AMPT HILL

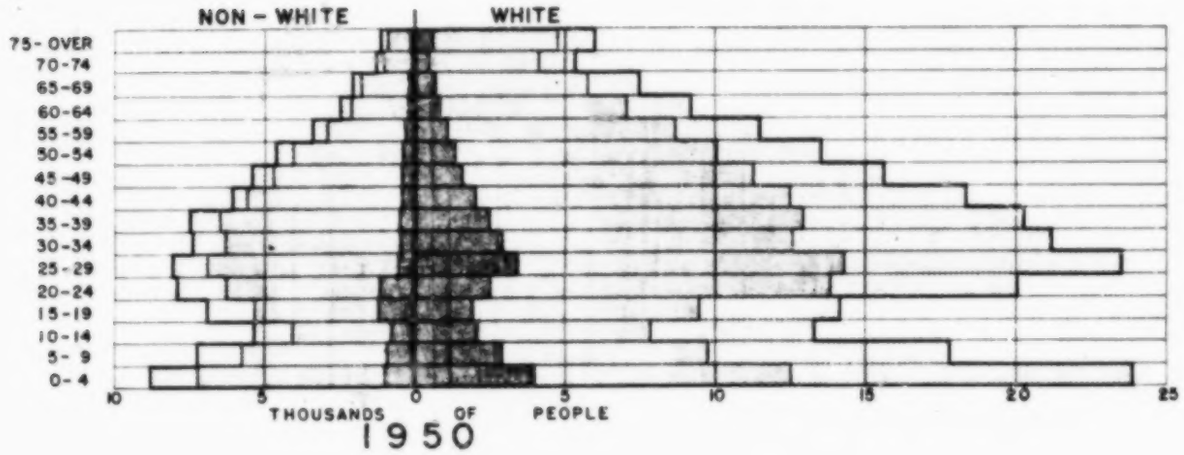
CHESTERFIELD ANNEXATION AREA

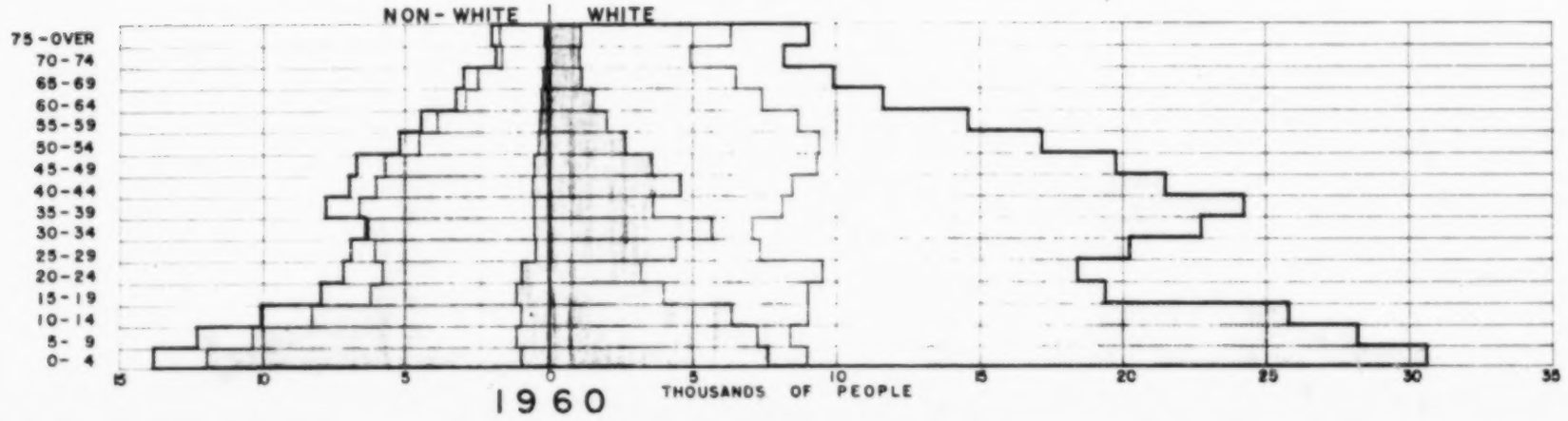
JULY 1, 1969 SCALE 1" = 3000'

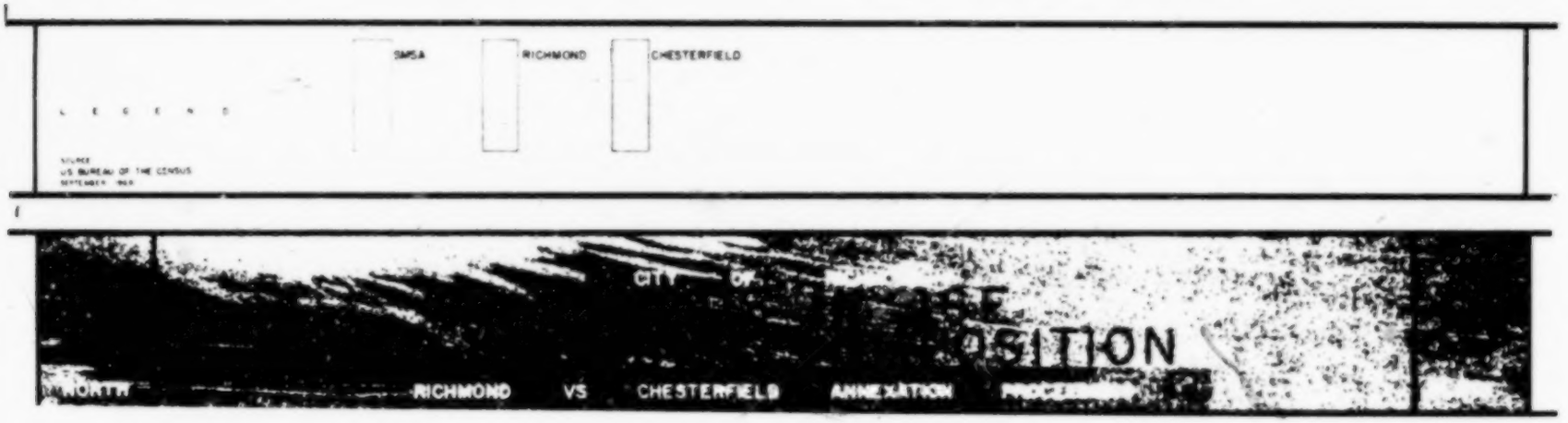
H. Plaintiff's Exhibit 10 — Map of Annexed Area.

Plaintiff's Example 12 (1)









TRENDS IN AGE AND RACE COMPOSITION—1940, 1950, 1960—SMSA, Richmond City and Chesterfield County

This exhibit graphically portrays the changing age and race composition of Richmond as contrasted to that of the total metropolitan area and Chesterfield County.

In 1940 and 1950, the pyramid of the City generally reflected that of the metropolitan area, as did the white population of Chesterfield County. The non-white population of Chesterfield County has been so small that it does not relate to the metropolitan composition trends.

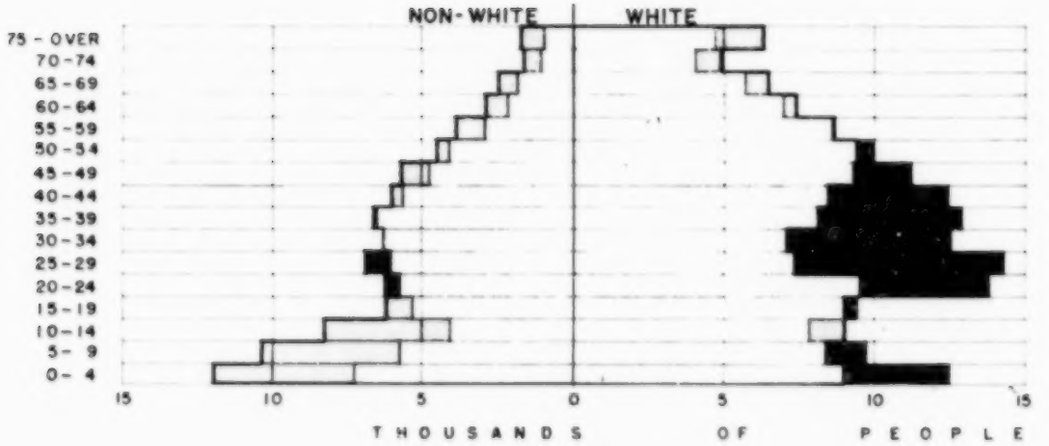
By 1960, a significant imbalance has occurred in the age composition of the City's population. There has been a drastic loss of white working-age adults and a sizeable increase in the very young and the very old non-white age groups.

Chesterfield County has shown a steady increase in white population since 1940, especially in the younger age groups and has had practically no change in its over all non-white composition.

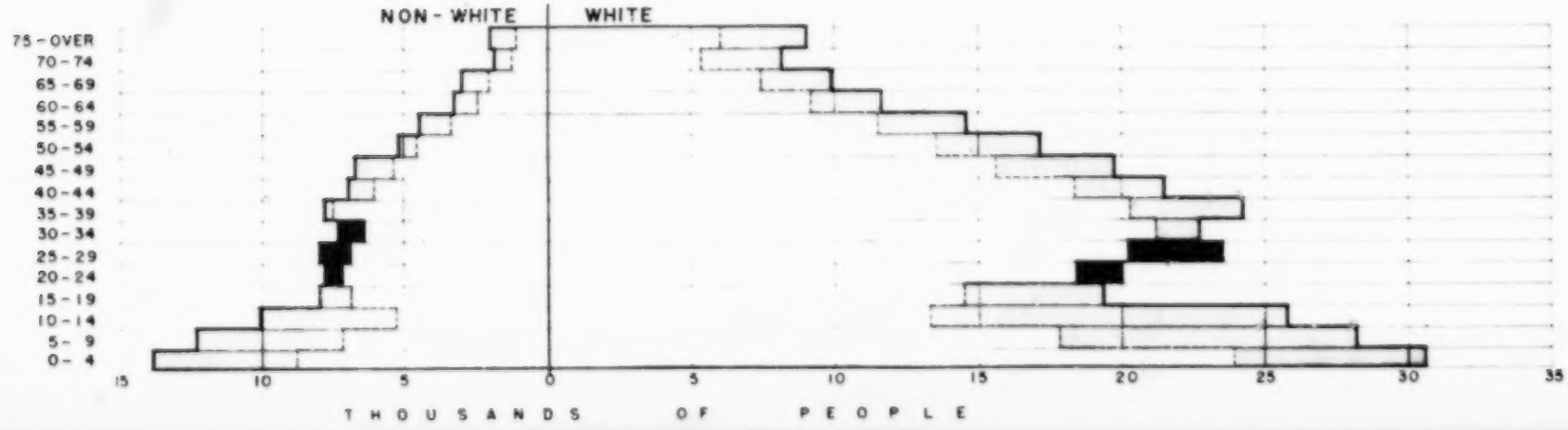
I. Plaintiff's Exhibit 12 (Def. Ex. 16) – Population, Race and Age Composition Charts. (2 Charts)

Plaintiff's Example 12 (2)

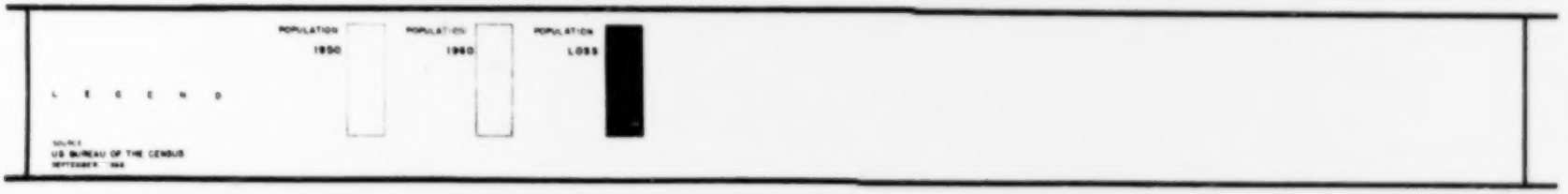
CHESTERFIELD



RICHMOND



SMSA



POPULATION COMPOSITION CHANGES 1950-1960

26

POPULATION COMPOSITION CHANGE—1950 TO 1960—Richmond Chesterfield and SMSA

This exhibit shows quite graphically the imbalance in age composition that has been occurring in Richmond since 1950.

In the bottom diagram, it is evident that there was a steady increase in population, both white and non-white in all age groups in the SMSA from 1950 to 1960, with the largest increases for the white population. In the age groups 0-19, however, the non-white population also increased significantly.

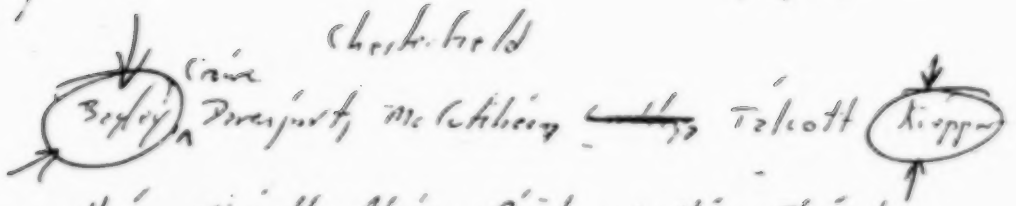
Chesterfield County had practically no change in non-white population, but significant increases in white population.

The City of Richmond gained in non-white population, with increases in the older age groups and extremely large increases in the 0-19 age groups. The white population declined drastically, with the loss occurring in the young adult ages from 20 to 45 and in 0-9 age group. Within the City, from 1950 to 1960, the non-white population increased 18,890 while the white population decreased 29,601, producing a net lost of 10,711.

137-c

6/19/69

Chesterfield



Hemer, Bingett, Alcorn, Painter, walker, Thornton

off the record meeting -
Hemer - Bagley Agreement

① No appeal by County - help to eliminate intervenors

② Schools - contractual arrangements would be worked out -
purchase buses - equitable basis

③ Bonds - equitable arrangement - share high interest rate

④ Utilities - easement lines thru city where needed -
jurisdiction to serve - most convenient

✓⑤ Protection of political appointees

⑥ Resolve real estate value differences by appraisal

⑦ schedule of future public improvements

⑧ Employee protection
hire in equivalent position

PL x 26

L. Plaintiff's Exhibit 26 – Handwritten Notes of Meeting, dated June 19, 1969.

M. Plaintiff's Exhibit 29 – Crusade for Voters Letter, dated January 1, 1968.

CRUSADE FOR VOTERS
206 East Clay Street
Richmond, Virginia 23219

January 1, 1968

Honorable Members
Richmond Delegation
General Assembly of Virginia
State Capitol
Richmond, Virginia

Dear Sirs:

This Memo has been duly prepared and authorized by the Richmond Crusade for Voters, to be specifically presented to each member of the Richmond delegation to the General Assembly of Virginia, as a Guideline of our interest and position regarding legislation coming up for passage during the 1968 Assembly.

(1) We propose that the adoption of The Hahn Report be deferred to a later meeting of the General Assembly.

(2) We are in favor of a mandatory school attendance law, throughout the state, covering ages from six to sixteen.

(3) We favor abolition of Tuition Grants for non-sectarian private schools.

(4) We favor annual sessions of the General Assembly.

(5) We advocate passage of necessary legislation to

authorize direct payments from the State to the City of Richmond for use of city tax exempt land, and services, in lieu of Taxes.

(6) We favor passage of necessary legislation, granting authority for Richmond City Council to fix time and place for Voter Registration for City of Richmond.

(7) We favor modification or elimination of State "Pay as you go" financing.

(8) We oppose the amendment of Sec. 702 of the City Charter in order to permit the sale of Bonds to cover annexation cost.

(9) We favor asking the General Assembly to impose a moratorium on the annexation of Chesterfield County and Richmond.

(10) We are in favor of State assumption of Welfare costs.

(11) We are in favor of repeal of 1946 resolution of opposition to local governing bodies recognizing labor unions to negotiate for city employees.

(12) We are in favor of passing a State minimum wage law.

(13) We are in favor of legislation providing for the establishment of and operation by the State, of its own Poverty Program.

(14) We are in favor of providing free textbooks for students in all sections of the State of Virginia.

If there are questions that you would like to ask of us, feel free to call upon us.

We hope that you will have a forward looking and progressive session of the General Assembly.

Sincerely yours,

/s/ Wilmer Wilson	/s/ Milton Randolph, Sr.
Wilmer Wilson	Milton Randolph, Sr.
Vice President	President
/s/ William S. Thornton	/s/ Lola H. Hamilton
William S. Thornton	(Mrs.) Lola H. Hamilton
Board Chairman	Secretary

(1)

Tuesday July 16, 1968

Alan Kiepper - we met at "Mr Dorset"; he was 10 minutes late! 8:40 AM

We discussed the Courts suggestion that we meet - he stated that he was having trouble with his legal staff and members of Council; the lawyers wanted to be a part of the negotiations.

I stated that this would not be feasible - we might get a playback in Court of statements made - where just the two are meeting, this could not be proved.

I said that Edwards would not negotiate and would be a deterrant.

Kiepper: You know the City's needs - we must balance the population, get land for industry etc. Would the County agree to negotiate?

Burnett: we might gamble a bit. We think we have a strong case but if we could settle for a small area, we might gamble this against the possibility of losing the entire 51 sq. mi.

K: What would suggest as to future meetings?

B: Possibly the next meeting, we could talk philosophy on how much or how far each could go. The next meeting could well be a meeting where each could bring a map with proposed lines. we still would have to try the case to decide the cost.

Px 32

N. Plaintiff's Exhibit 32 – Melvin W. Burnett Notes (8 pages).

(2)

K: This might be a reasonable approach.
How about next meeting -

Decided it would be best to call -
July 29th or 31st seem best time -
we parted at 9:15 Am.

This meeting was arranged on
July 15th in the afternoon.

(3)

July 29 - Kiepper called me - we set lunch
on 30th

7:30 - lunch at Va. Inn - both 15 min late.
Discussed need for negotiation in good faith.
He said City needed both people and land.
I stated County was forced to assume the
posture of a city because City did not
annex and did not give utilities on
economical basis to County.
Decided: County would give to City a map
showing what County would give voluntarily.
I stated we could possibly agree on
8.5 sq mi. and 18,500 people. City should
take this and try sincerely to merge
with Henrico.
He thought merger a good idea but area
too small but "put it on a map and
I'll see what I can do."

BEST COPY AVAILABLE

(4)

Monday August 5, 1968
Kiepper called in AM and set up meeting at my house at 5-5:30 pm
He arrived about 6:30 pm - ?

I gave him a County map with lines marked showing an area of 8.4 sq. mi. and 18,871 people. Showed where the industrial land was; area had 85-90% of sales tax in county; that only 5% of families were colored; etc.
He seemed to think this too small.
I told him the B. of S. might go a little farther but it would be hard to sell. Pointed out how nice it would be to settle on a line and not have to fight a vicious court battle - it would be better for us both.
He would see what his people said!

responsive to a request by I

(5)

Council time (3)

Monday August 12, 1968
Kiepper called in AM and set meeting at my house at 5:30 pm. He called at 6 pm said Council was holding him up - he arrived at 9:25 pm ??

He gave me a map showing City's request - 39.7 sq. mi. and 56,540 people
I told him that this was not negotiating in good faith that if this was the best the City could offer, then we were both wasting time.
He seemed to want to continue negotiations but stated the City had to have 50,000 people.
I said this was out of the question. If we had to give up this many, the Court would have to order it. He was adament in his demands.
(We bet $10.00 on land and 10.00 on people - that the city would not get 1/2 of what they asked for.)

He left at 10:30 pm - I said that I would call him if another meeting was needed - but that I did not think we would need another meeting - we were too far apart.
We parted friends!

(6)

Mon. Aug 19 I called - set appointment for Wed, Aug. 21st at 9 Am at DoNot
I arrived at 8:58 AM - he was there.
I stressed the need for continued negotiations - cited the problems of a hard court fight and the time + money saved if an agreement could be reached. But the County could not negotiate on 50,000 people. Couldn't the City reduce its requirements?
After much talk he agreed to ask his Council to agree on possibly down to 35,000 people. He realized advantages but the City was in pretty bad shape and needed to expand.
Agreed -

report to whom?

did you do this?

Mon Aug 26 - Kiepper called - City would need: People, Ind. land, vacant land in that order; City would negotiate further on a figure between 36,000 and 50,000. wants to see what the County proposes.

Fri. Aug 30 - I called him - arranged that he would call me at 6 pm - I would meet him at Kings for a few minutes - he called at 7 pm - too late. Check lunch tomorrow -

(7)

Sat. Aug 31 - We met at 12:30 at Schnatter's. Very pleasant -
I gave him map showing 21,358 people and said we could possibly find another 3000 or 3300 more. Again pointed out the divided feeling on the Board, that this was a hard-sell proposition, etc.
He said - City would never accept that few with present Council of lawyers. We had a frank discussion of things as they are. This is a hobby for Horace; 3 members of Council have not been told they'll pay the bill when the 3-judge court says to pay it; he is in a bad position - he would like to, but can't recommend suit be settled - majority of Council believes we will get most of what we ask for. If he recommends a lesser amount and pushes it thru, he will be branded a quitter. Horace is the bull - John D - would settle - David M. appears to be bullish but is inclined to settle. Horace feels certain he has the case won.

25M

What to do

I asked that City respond with a map showing what they would be willing to take. Pointed out that we had virtually offered 25,000, that he had agreed to come down to about 35,000 - we weren't so far apart

(8)

He said that he did not think Council would settle for 35,000.
I asked if by some magic we could agree on 30,000, would he recommend it. He's boxed in by Horace and council. He could go to full Council - it would be a 5:4 decision for or against.
He is going to give me a map next.

Sept. 12 Kepper called - said he had a map, he could bring it by home - I agreed.
He came about 7:45 pm., presented his map, stated we should keep trying to negotiate, tried to bring us up to 35,000 - his line had about 45,000.
I said that I did not think Bd. would ever agree. We talked for about 20 min.

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Motion to Consider Consent Judgment, with Consent Judgment attached, filed May 15, 1973.

[Caption omitted in printing]

Plaintiff, City of Richmond, moves the Court to consider the attached Consent Judgment, proposed by Plaintiff and the Department of Justice for Defendants the United States of America and Richard Kleindienst, and, for the reasons stated therein, to approve the same.

Respectfully submitted,

For the Plaintiff

/s/ By: Charles S. Rhyne
Charles S. Rhyne
Rhyne & Rhyne
400 Hill Building
839 - 17th Street, N. W.
Washington, D. C. 20006
Telephone: 202-347-7992

[Caption omitted in printing]

The undersigned parties, having stipulated and agreed that:

1. This Court has jurisdiction over this action pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c.

2. Plaintiff is a political subdivision of the Commonwealth of Virginia with respect to which the provisions of said section are in effect.

3. The plaintiff's corporate boundaries were enlarged on January 1, 1970, by a decree of a special annexation court in Chesterfield County acting pursuant to the provisions of Title 15.1, Chapter 25 of the Code of Virginia of 1950, as amended. By virtue of said decree of the annexation court consisting of three circuit judges in accordance with the aforesaid annexation statutes, approximately 23 square miles of land area adjacent to the city, located in Chesterfield County, was added to the City of Richmond. The pre-annexation population of the city as of 1970 was 202,359 of which 104,207 were nonwhite and 98,152 were white persons. The annexation added to the City, according to the 1970 United States Census figures, 47,262 people, of which 1,557 were nonwhite and 45,705 were white persons. Under the existing method of elections, all nine of Richmond's City Council members are elected at large.

4. On the record herein, the decisions of this Court and the United States Supreme Court in *City of Petersburg v. United States,* are controlling.

5. On May 1, 1973, the City Council of Richmond duly adopted a plan for dividing the City, including the annexed area, into nine separate wards as shown and set forth in Exhibit A submitted herewith, contemplating that one member of the City Council is to be elected from each ward.

6. The City proposes that the Council shall be elected in the following manner:

A. Council shall be composed of nine members, one from each ward, who shall, at the time of filing

their notice of candidacy, be residents of the wards they seek to represent and qualified voters of the City and shall be elected by the qualified voters of such wards, respectively.

B. The candidate receiving the greatest number of votes in his ward shall be declared to be elected and shall serve for a term beginning on the first day of the calendar month following the election and expiring July 1, 1974, or until his successor has been elected and qualified.

C. The term of the present members of Council shall expire on the first day of the month following the date of a special election to be held

D. If any vacancies shall occur by death, resignation, removal from the ward, failure to qualify or for any other cause, Council shall elect a qualified person to fill the vacancy for the unexpired term.

E. The Constitution and laws of Virginia relating to the conduct of elections, as far as pertinent, shall apply *mutatis mutandis* to the conduct of this election.

F. The plan of election hereby stipulated is considered an interim plan for a special election of councilmen whose terms will expire July 1, 1974, which Council is to be given an opportunity to study and recommend to the General Assembly of Virginia at its session beginning the second Wednesday in January 1974 amendments to the charter of the City of Richmond relating to the election of the members of Council which will not be in conflict with the United States Constitution and the laws enacted pursuant thereto.

NOW, THEREFORE, upon consent of the undersigned parties, it is hereby

ADJUDGED, ORDERED and DECREED that judgment issue declaring that the annexation, as modified by the election plan proposed by the City of Richmond and stipulated by the parties as above set forth, does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

It is further ORDERED that this Court retain jurisdiction of this action to consider any additional matters which might arise and to enter such further orders as it may consider to be necessary.

ORDERED this day of May, 1973.

J. SKELLY WRIGHT
UNITED STATES CIRCUIT JUDGE

WILLIAM B. JONES
UNITED STATES DISTRICT JUDGE

JUNE L. GREEN
UNITED STATES DISTRICT JUDGE

The undersigned agree to the entry of this judgment.

FOR THE PLAINTIFF:

RHYNE & RHYNE

/s/ By Charles S. Rhyne

/s/ C. B. Mattox
CONARD B. MATTOX
City Attorney

/s/ John H.

FOR THE DEFENDANTS:

/s/ Gerald W. Jones
GERALD W. JONES

/s/ Sidney R. Bixler
SIDNEY R. BIXLER
Attorneys, Department of Justice

FOR THE DEFENDANT-INTERVENORS
CURTIS HOLT, SR., et al.:

VENABLE AND ALLEN

By

FOR THE DEFENDANT-INTERVENORS
CRUSADE FOR VOTERS OF RICHMOND:

ARENT, FOX, KINTNER, PLOTKIN & KAHN

By

Transcript, exerpt from Hearing on July 23, 1973 Before Three-Judge District Court below, *City of Richmond* v. *United States, et al.*, pp. 8-9.

[8] MR. RHYNE: . . . their plan, and we say that their plan – the Department of Justice certainly didn't have the purpose or effect of abridging or denying the right to vote of any citizen of the City of Richmond on account of race or color.

I realize there can't be a perfect plan, and I realize there is a lot of speculation, too, about the color of different people in different parts of this city, and I sincerely believe that having gone through the factual situation that I have outlined to you – Your Honor will remember you asked me the question and I had no opportunity to confer with my clients or anybody else – I told you quite honestly and sincerely, because I think that is what a lawyer should do, that I thought this case was governed by Petersburg, when you asked me the last time, when we were here on March 8.

From that time until now I think an enormous good-faith effort has gone on in the Department of Justice, among intervenors, and by the City of Richmond, to present to this Court what the remedy should be.

I think Your Honor has put your finger right on it: Is the Plan A that is attached to the proposed consent judgment, and which the Department of Justice is urging upon you, a fair, [9] reasonable – the best possible plan under all the circumstances?

JUDGE WRIGHT: You stated it right the last time, the best possible plan, reasonably possible.

It is conceded that there is a dilution of the black vote as a result of this annexation. There is no doubt about that.

So to compensate for that, there must be the best possible plan, reasonably possible plan.

Now, that is what the law is and that is what we must address ourselves to.

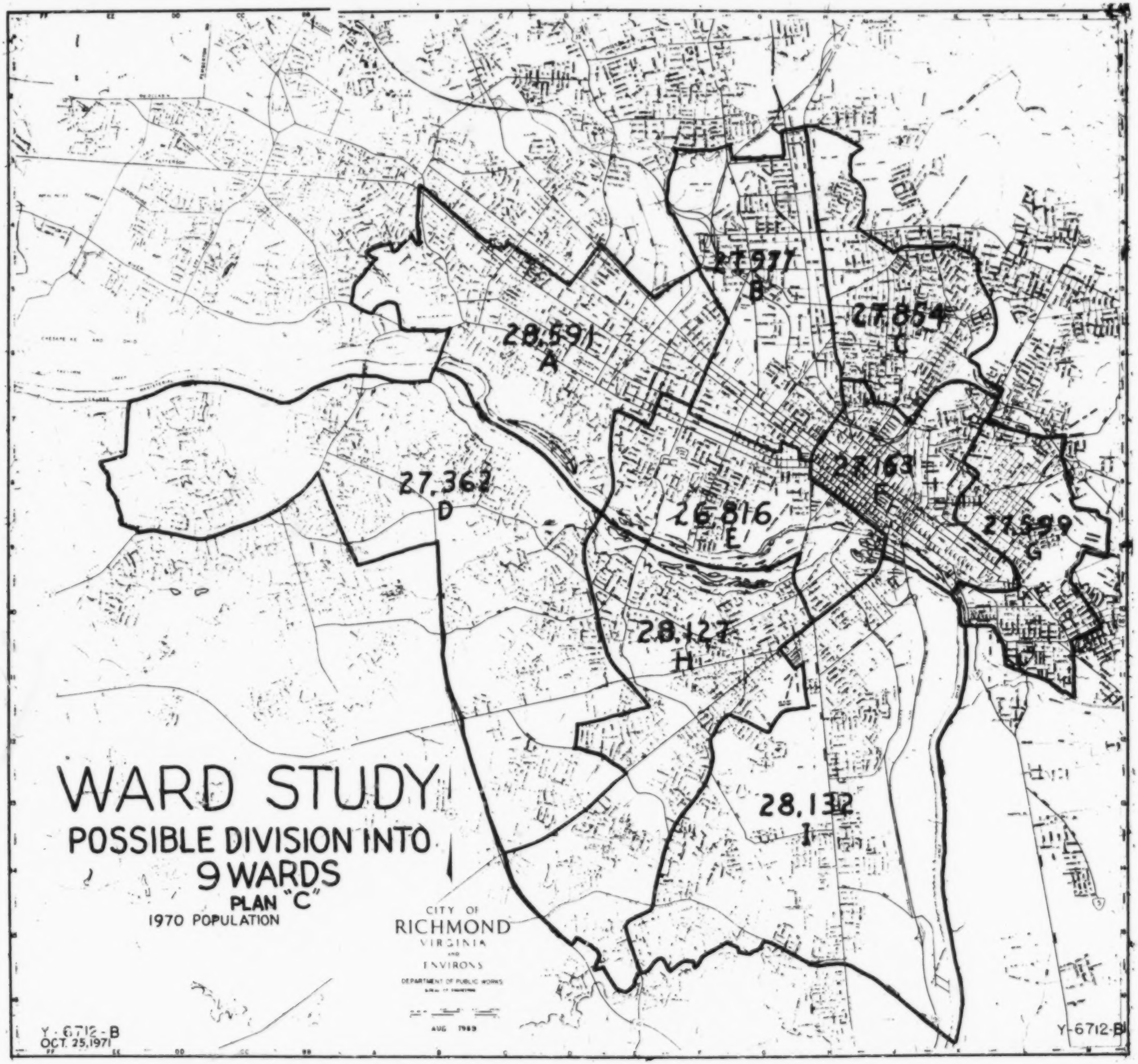
MR. RHYNE: That's right. I don't disagree with you one iota.

I suppose that I could go on and on stating the obvious, restating what I have already said, but it really comes right down there, Your Honor, we feel this is the best possible plan.

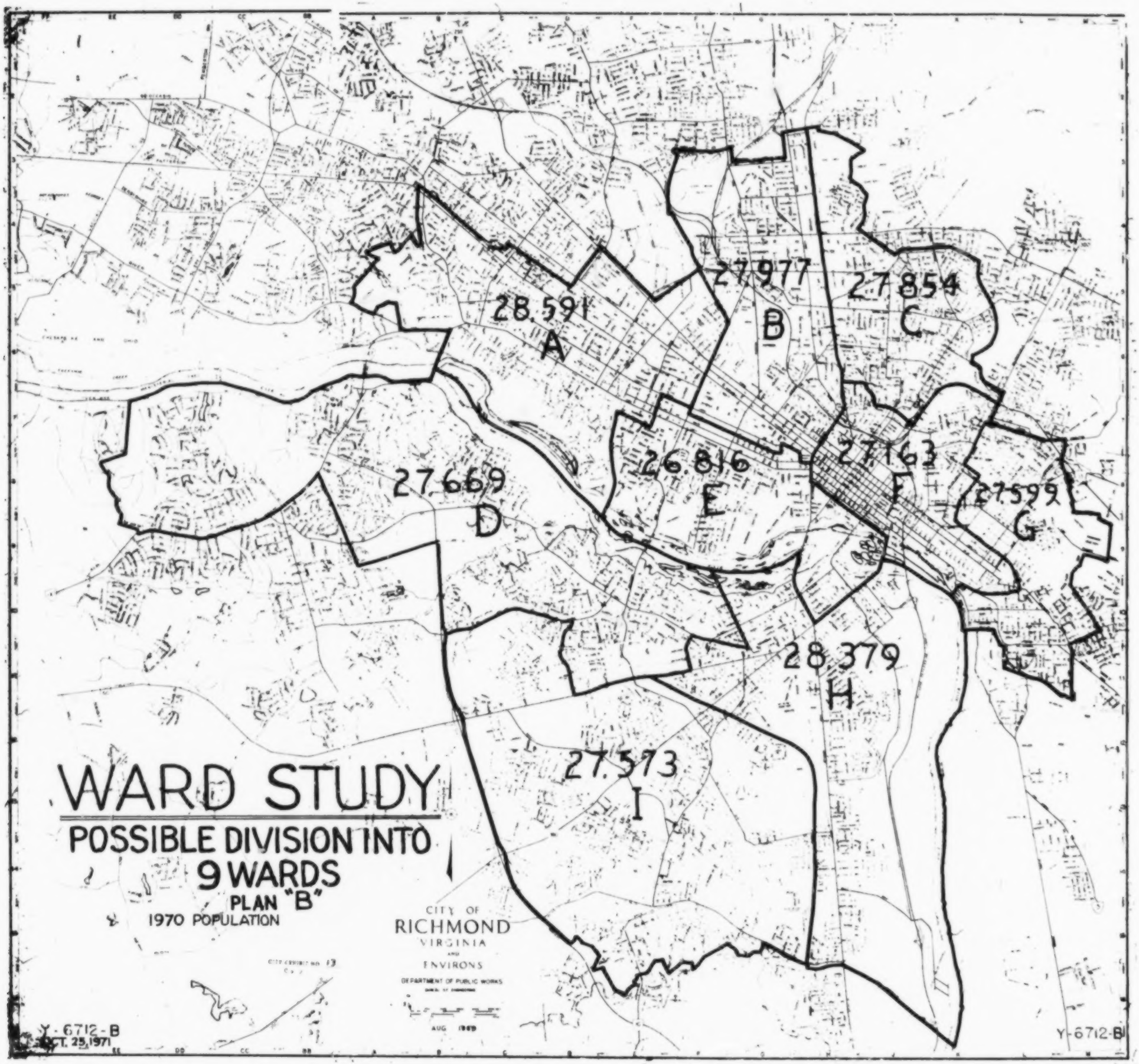
We feel that in the words of the Petersburg case – I think they used the word "neutralizes" to the best possible extent any dilution, and I think that that applies here and I think that actually insofar as we are concerned, we rely upon the expertise of the Department of Justice that has – they might not like my characterization of it – by statute been made the experts in this kind of thing.

So we urge you to approve it. We feel again that it is – well, I say it is the best possible plan.

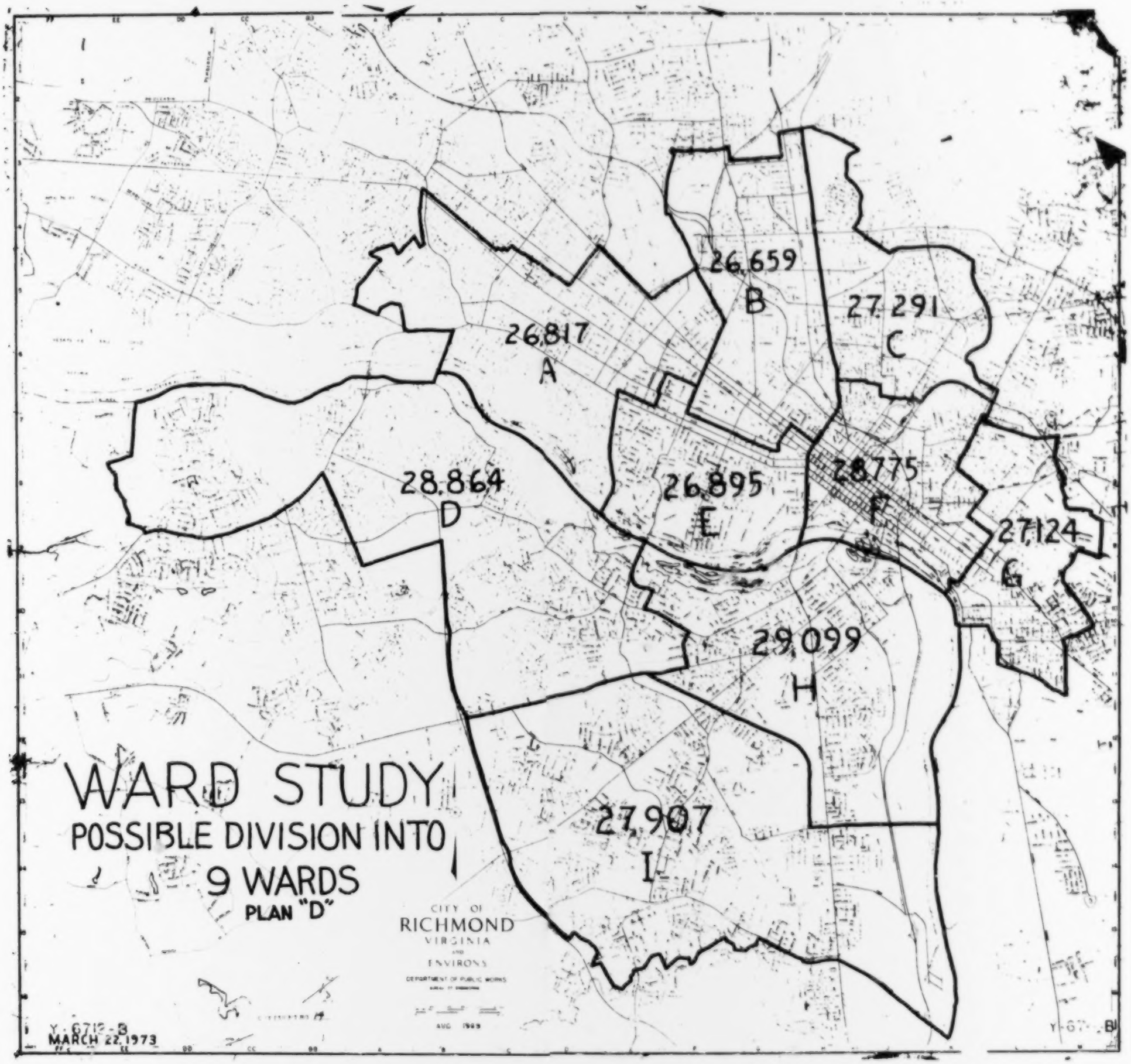
Exhibits From the Hearing Before the Special Master, appointed by the Court below, *City of Richmond* **v.** *United States, et al.*



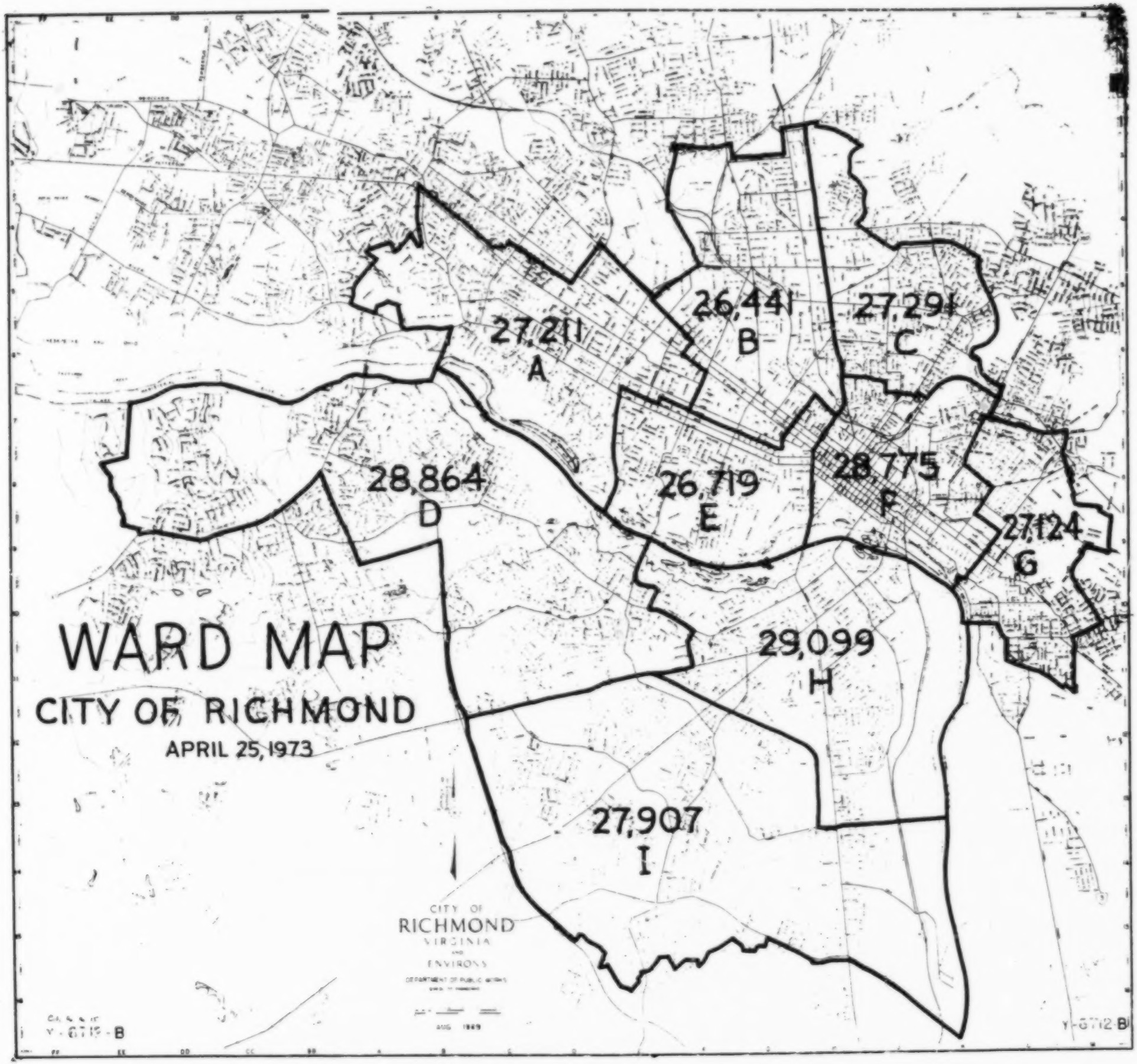
A. Plaintiff's Exhibit 12 – Plan C, Nine-ward Plan Map.



B. Haintiff's Exhibit 13 — Plan B, Nine-ward Plan Map.



C. Plaintiff's Exhibit 14 – Plan D, Nine-ward Plan Map.



D. Plaintiff's Exhibit 15 – Nine-ward Plan.

City Exhibit No. 18.

City of Richmond vs. United States of America

TABLE ____
REVISED DEMOGRAPHIC CHARACTERISTICS OF
WARD MAP - CITY OF RICHMOND
April 25, 1973

Ward	Total Population	Non-Black	Percent	Black	Percent
A	27,085	26,556	98.0	529	2.0
B	26,442	22,190	83.9	4,252	16.1
C	27,117	7,149	26.4	19,968	73.6
D	28,864	28,525	98.8	339	1.2
E	26,803	9,476	35.4	17,327	64.6
F	28,990	3,227	11.1	25,763	88.9
G	27,124	3,832	14.1	23,292	85.9
H	29,099	17,204	59.1	11,895	40.9
I	27,907	26,506	95.0	1,401	5.0

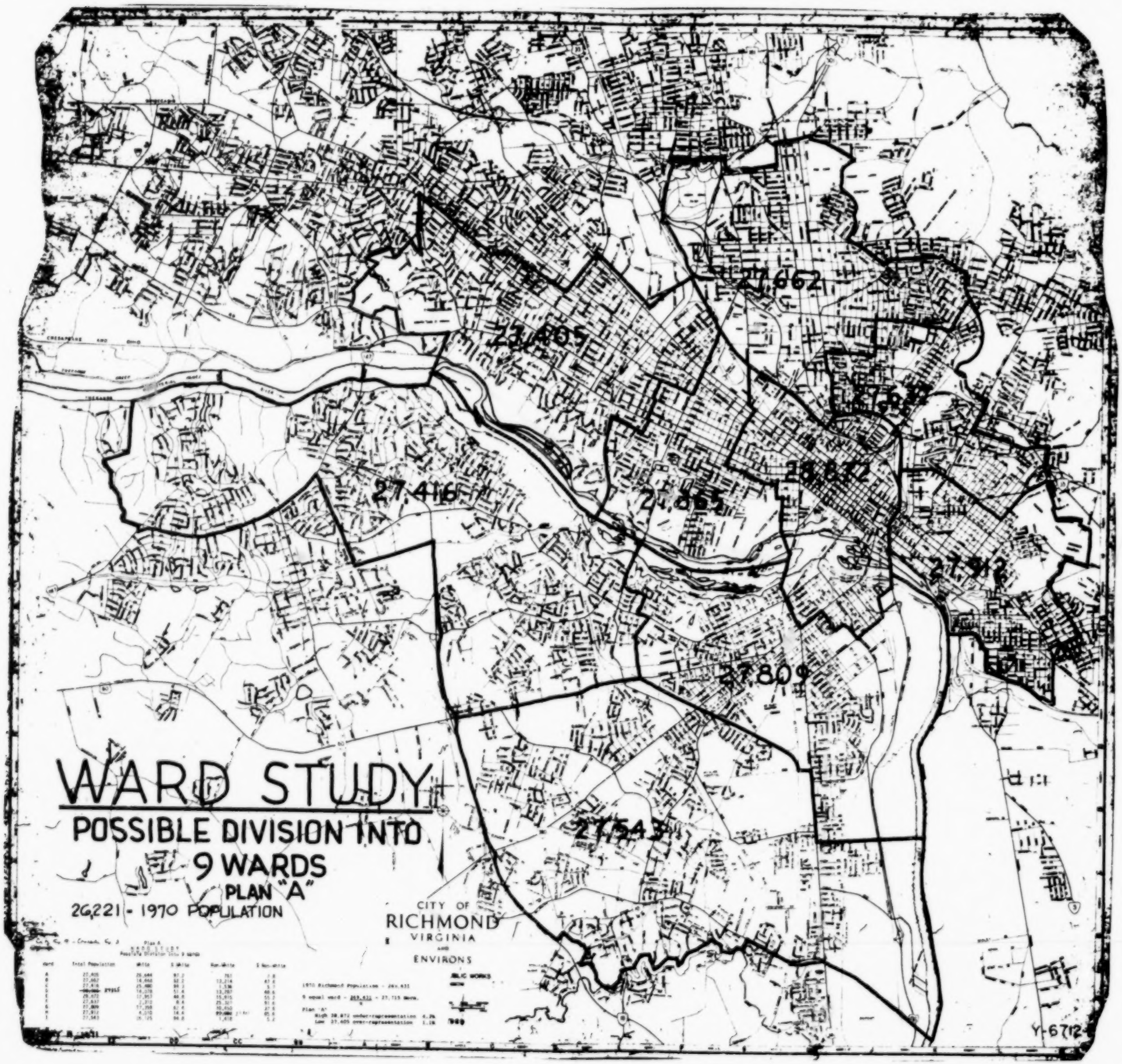
Norm $\frac{249,431}{9} = 27,715$

Over Representation = 26,442 = -4.6%
Under Representation = 29,099 = +5.0%

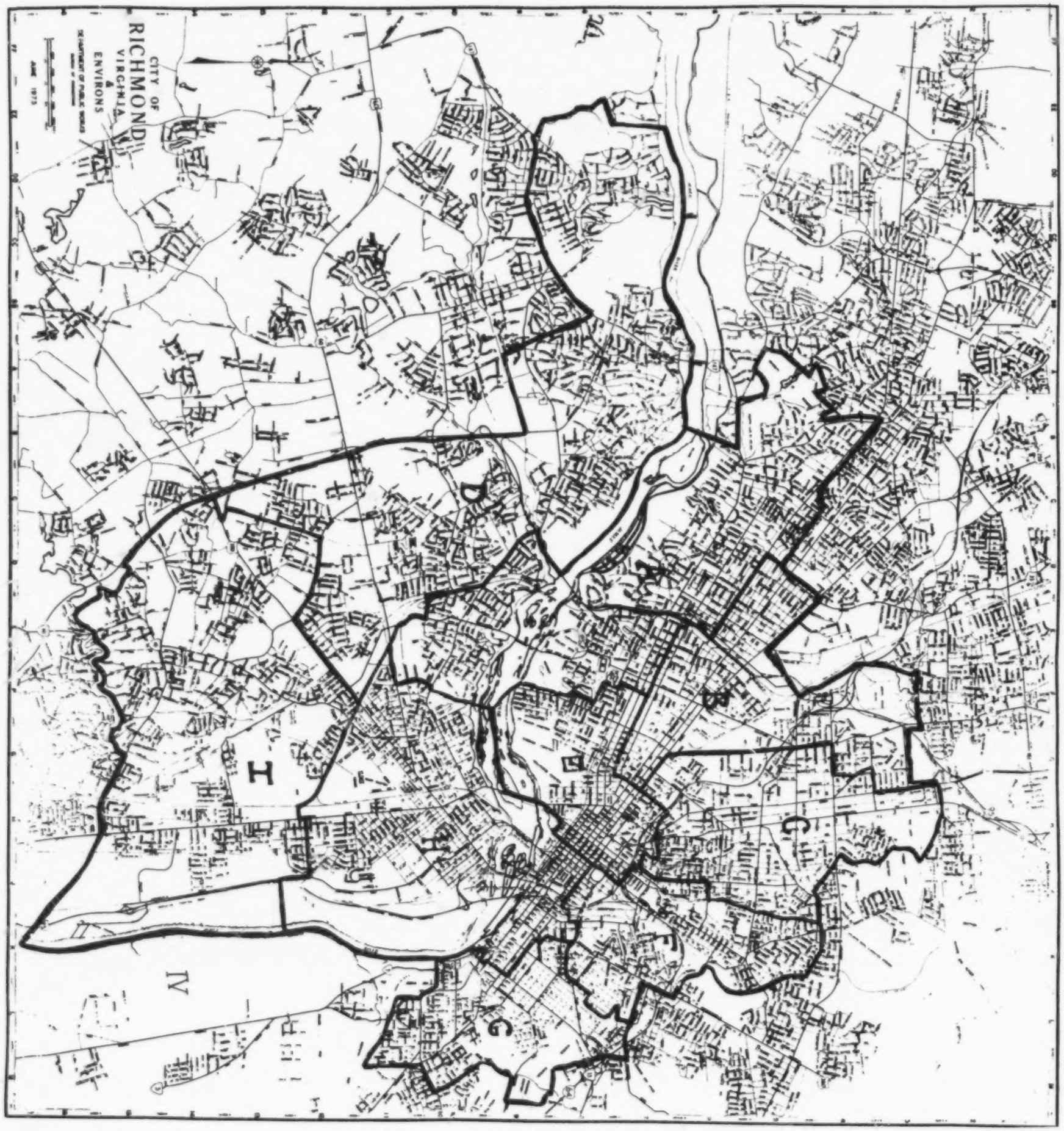
Source: Population Data - U.S. Department of Commerce,
Bureau of Census
Publications - PHC(1)-73 and HC(3)-257

August 20, 1973

E. Plaintiff's Exhibit 18 – Demographic Characteristics, accompanying Exhibit 15.



F. Crusade for Voters Exhibit 3 — Plan A.
Nine-ward Plan Map.



MAP IV (Crusade Intervenors' Exhibit Q)

WARD	TOTAL POP.	WHITE & OTHER	% WHITE & OTHER	BLACK	% BLACKS
A	27,912	25,455	91.20	2,457	8.80
B	28,399	28,133	99.06	266	.94
C	28,306	9,155	32.34	19,151	67.66
D	27,572	27,049	98.10	523	1.90
E	27,712	7,538	27.20	20,174	72.80
F	27,007	4,914	18.20	22,093	81.80
G	27,913	3,824	14.10	23,289	85.90
H	27,933	12,199	43.67	15,734	56.33
I	27,524	26,155	95.03	1,369	4.97

Maximum Deviation 5.02%

N.B. There are two minor errors in Maps IV and V that have not as yet been corrected.

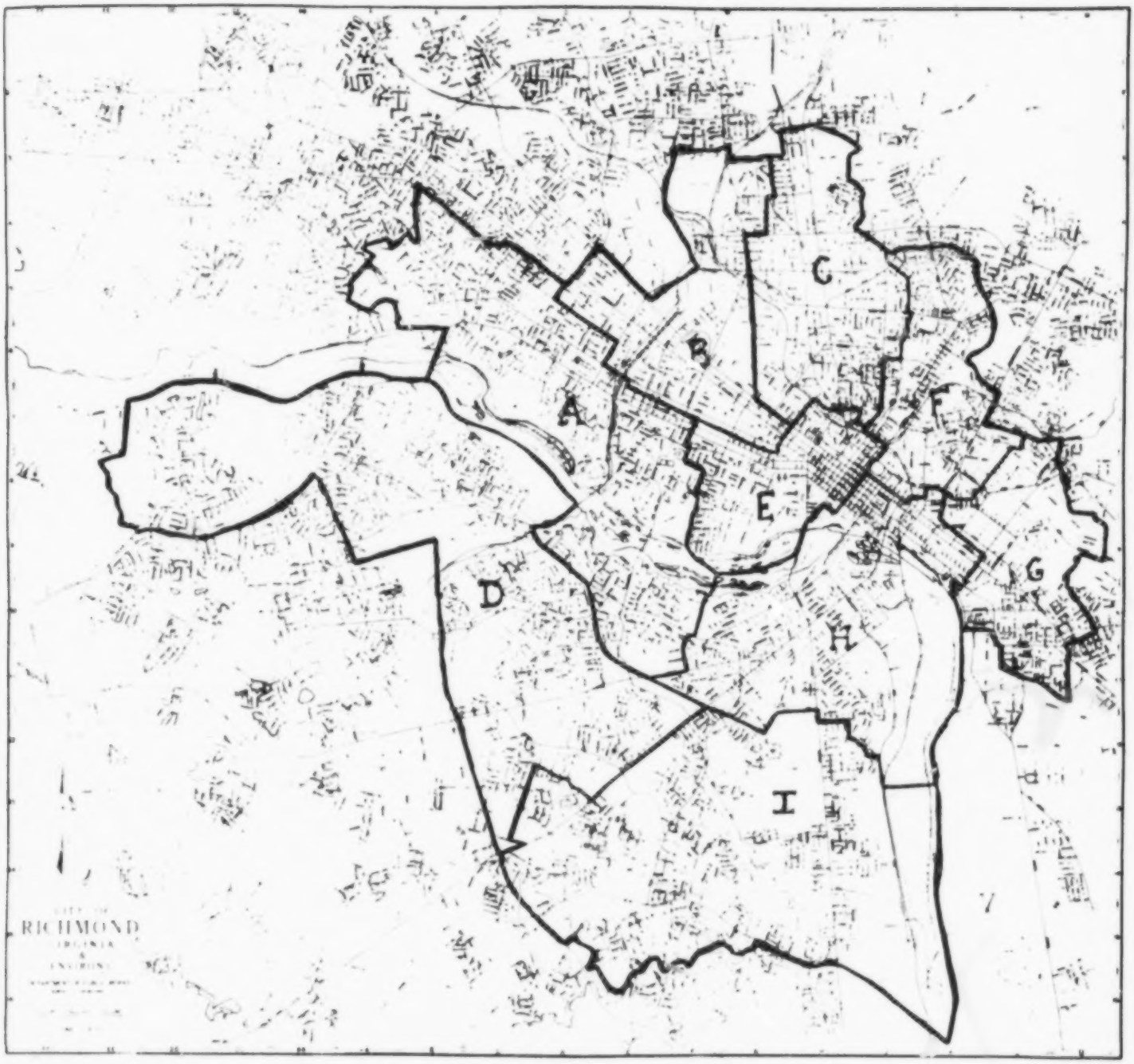
a) The total population in Plans IV and V is 249,678 which is 47 more than the population as published in 1970 Census data.

b) The total white and black populations for Plans IV and V is 144,422 and 105,056 respectively. The total white population is 233 less than the 1970 Census figure, and the total black population is 290 greater than the 1970 Census figure.

G. Crusade for Voters Exhibit 20 – Plan Q, Nine-ward Plan Map.

CRUSADE FOR VOTERS EX Q - (WARD)

CRUSADE FOR VOTERS EX R (4 of 4)



H Crusade for Voters Exhibit 21 Plan R.
Nine-ward Plan Map

MAP V (Crusade Intervenors' Exhibit R)

WARD	TOTAL POP	WHITE & OTHER	% WHITE & OTHER	BLACK	% BLACKS
A	27,114	25,257	91.13	2,457	8.87
B	28,190	27,928	99.07	262	.93
C	27,979	10,100	36.10	17,879	63.90
D	27,730	27,105	97.75	625	2.25
E	27,713	7,538	27.20	20,174	72.80
F	27,460	4,956	18.05	22,508	81.95
G	27,276	3,820	14.03	23,456	85.97
H	27,851	11,417	40.98	16,444	59.02
I	27,690	26,301	95.27	1,305	4.73

Maximum Deviation = 1.47

There are two minor errors in Maps IV and V that have not as yet been corrected.

a) The total population in Plans IV and V is 249,478 which is 47 more than the population as published in 1970 Census data.

b) The total white and black populations for Plans IV and V is 144,422 and 105,056 respectively. The total white population is 233 less than the 1970 Census figure and the total black population is 290 greater than the 1970 Census figure.

I. Defendant United States Exhibits 1 through 11.

Exhibit 1, Letter from David L. Norman to C.B. Mattox, Jr., May 7, 1971

May 7, 1971

Mr. C. B. Mattox, Jr.
City Attorney
Department of Law
402 City Hall
Richmond, Virginia 23219

Dear Mr. Mattox:

As you know, the Supreme Court recently held in *Perking* v. *Mathews,* 400 U.S. 379, 388-89 (1971), that "[c]hanging boundary lines by annexations which enlarge the city's number of eligible voters . . . constitutes the change of a 'standard, practice, or procedure with respect to voting' " within the meaning of section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. This letter concerns your submission of a 1969 annexation to the city of Richmond.

Municipal annexations are, of course, commonly undertaken for a variety of reasons and affect a number of areas of concern to local governments. Section 5 is not addressed to annexations per se, but the Attorney General is obliged under section 5 to be concerned with the voting changes produced by an annexation. In the present instance, the city of Richmond elects representatives to its governing body on an at-large basis; its population is approximately evenly divided between whites and blacks. The submitted change would increase

the city's population by approximately 43000 new residents of whom a very small minority is Negro. In the circumstances of Richmond, where representatives are elected at large, substantially increasing the number of eligible white voters inevitably tends to dilute the voting strength of black voters. Accordingly The Attorney General must interpose an objection to the voting change which results from the annexation.

You may, of course, wish to consider means of accomplishing annexation which would avoid producing an impermissible adverse racial impact on voting, including such techniques as single-member districts. See *Chavis* v. *Whitcomb,* 305 F. Supp. 1364 (S.D. Ind. 1969). Moreover, section 5 permits seeking approval of voting changes by the United States District Court for the District of Columbia irrespective of any previous submission to the Attorney General.

Sincerely,

DAVID L. NORMAN
Acting Assistant Attorney General
Civil Rights Division

EXHIBIT 1

Exhibit 2, Letter from David L. Norman to C.B. Mattox, Jr., September 30, 1971.

September 30, 1971

Mr. C. B. Mattox, Jr.
City Attorney
Department of Law
402 City Hall
Richmond, Virginia 23219

Dear Mr. Mattox:

This is in response to your resubmission on August 2, 1971, of the 1969 annexation to the City of Richmond for reconsideration pursuant to Section 5 of the Voting Rights Act. An objection was interposed to the initial submission to my letter of May 7, 1971.

We have reviewed and considered the additional information you furnished, as well as the comments and views expressed by yourself and Mr. Lewis F. Powell, Jr., who submitted a memorandum in support of the resubmitted change, and the recent findings announced by Judge Merhige in pending litigation involving this annexation. While we found this additional material both relevant and useful, we find no basis for withdrawing our objection.

Although, as you point out, the intervening decision of the Supreme Court in *Whitcomb* v. *Chavis,* 403 U.S. 124, did recognize that multi-member legislative districts are not unconstitutional *per se,* we do not believe that opinion is dispositive of issues raised by the Richmond annexation. In our view, considering all the available facts

and circumstances, the annexation of a large, almost exclusively white area does have a discriminatory racial effect on voting in the context of an emerging black majority electorate, at-large council elections, and evidence of racial purpose an effect introduced in a federal court proceeding. It is therefore objectionable under Section 5 of the Voting Rights Act.

We would like to reiterate our view that the objection of the Attorney General under the Voting Rights Act relates only to voting and election aspects of a proposed change and, therefore, need not necessarily invalidate this entire annexation. Thus, as we have suggested before, one means of minimizing the racial effect of the annexation and still allowing for the city's growth and expansion would be to adopt a system of single-member, non-racially drawn councilmanic districts in place of at-large voting. Should this or any other change be enacted and submitted to the Attorney General, we will make every effort to give it prompt consideration.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division

EXHIBIT 2

1966
RICHMOND
COUNCILMANIC
ELECTION

170

1
5

Richmond Voting by Precincts

Council

4-Year Terms

Five Virginians Get Fellowships

Norfolk Youth Dies Of Car Injuries

New Currency

Exhibit 3, 1966 Richmond Councilmanic Elections, "Voting by Precincts".

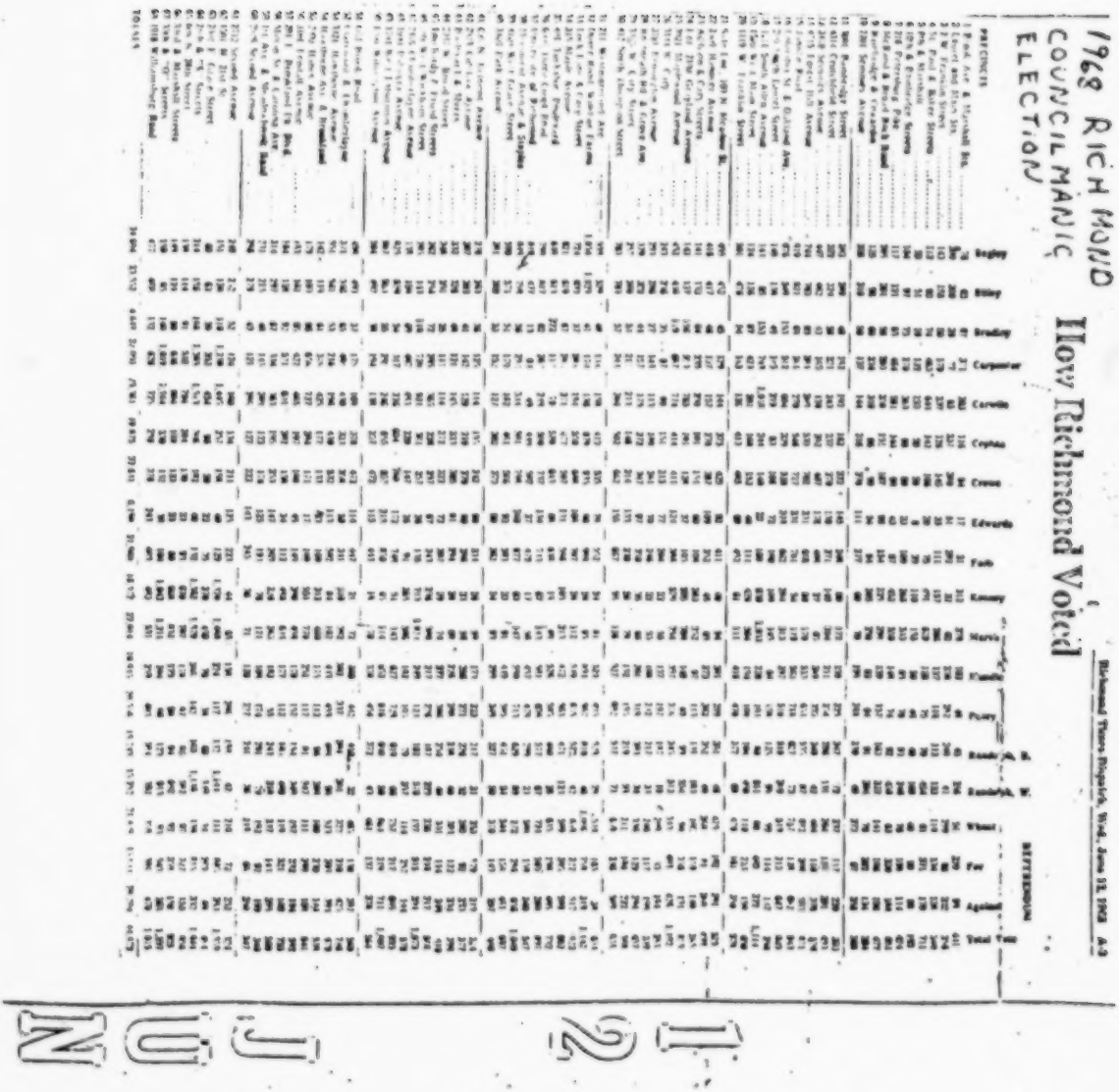


Exhibit 4, 1968 Richmond Councilmanic Elections, "How Richmond Voted".

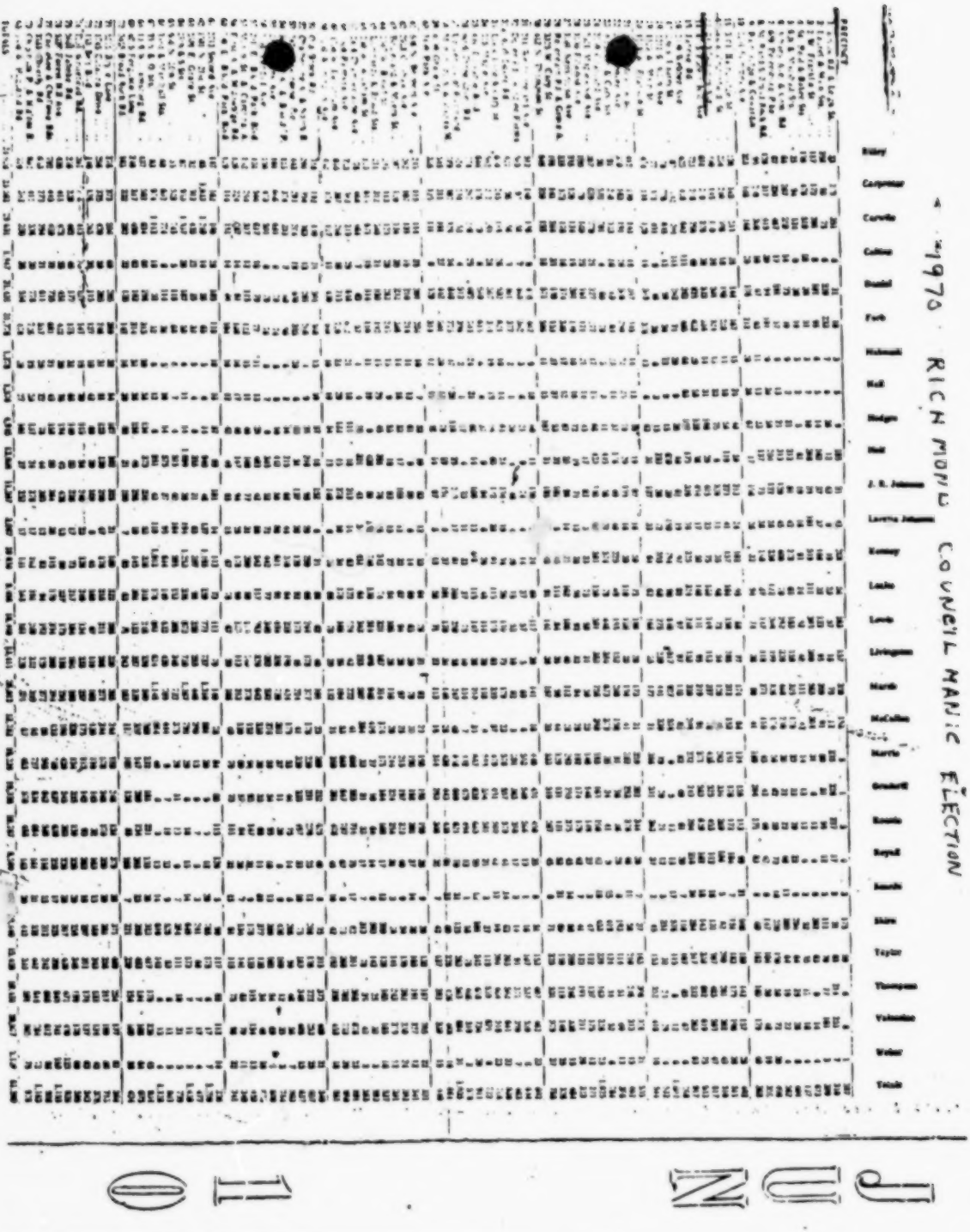


Exhibit 5, 1970 Richmond Councilmanic Elections

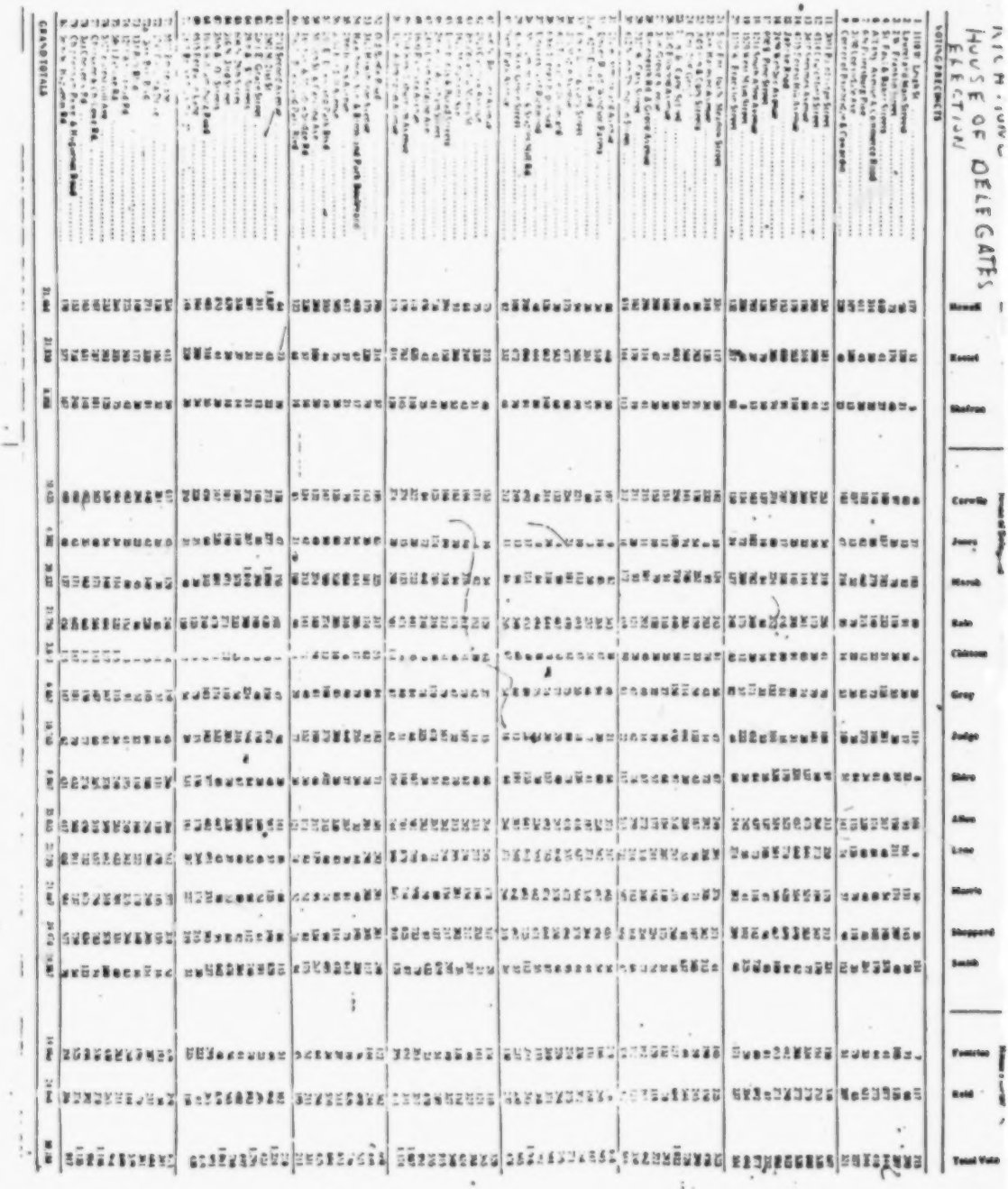


Exhibit 6, 1971 Richmond House of Delegates Election.

1966 RICHMOND COUNCILMANIC ELECTION

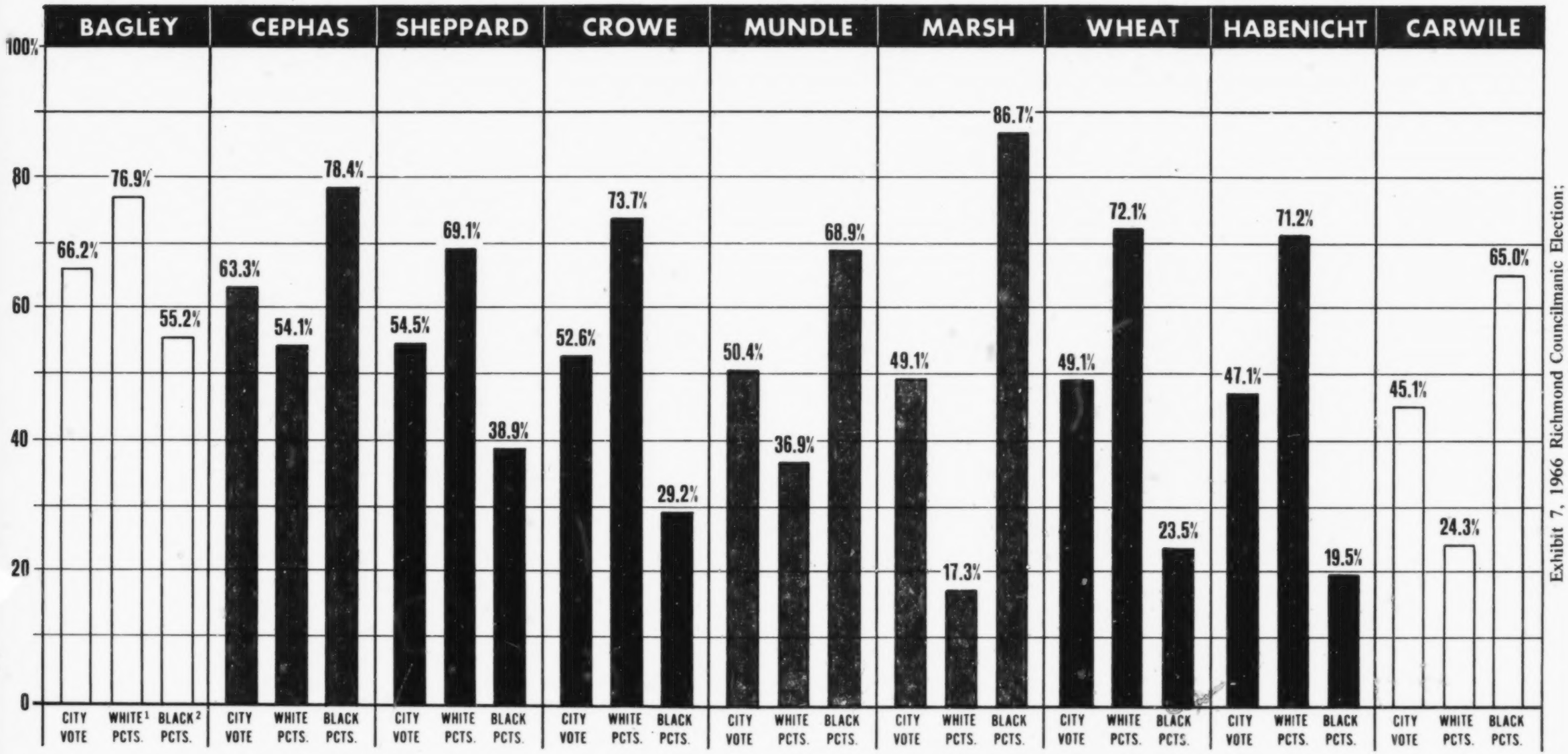
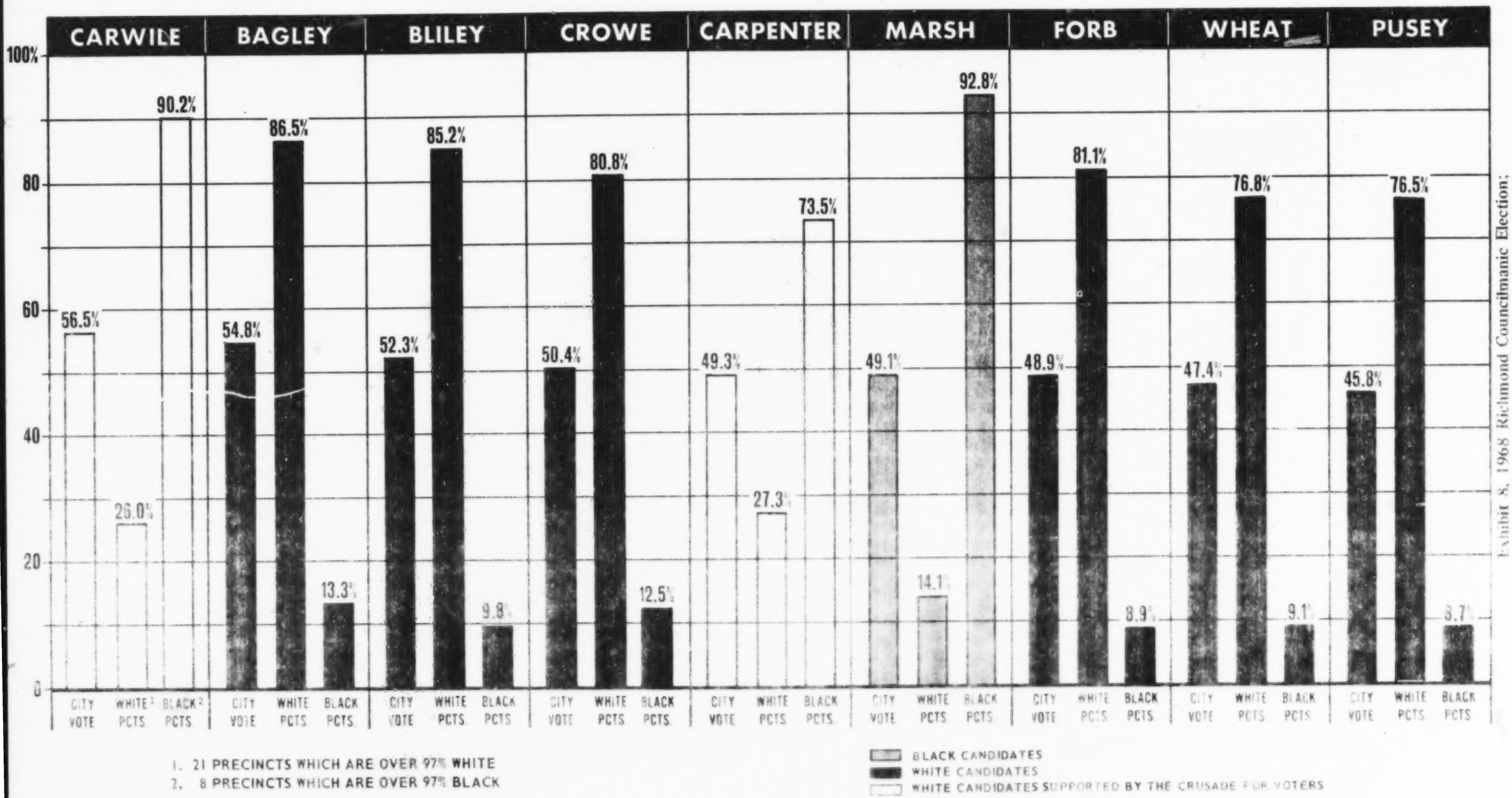


Exhibit 7, 1966 Richmond Councilmanic Election; percentage by candidate, white and black precincts.

1968 RICHMOND COUNCILMANIC ELECTION



1. 21 PRECINCTS WHICH ARE OVER 97% WHITE
2. 8 PRECINCTS WHICH ARE OVER 97% BLACK

BLACK CANDIDATES
WHITE CANDIDATES
WHITE CANDIDATES SUPPORTED BY THE CRUSADE FOR VOTERS

Exhibit 8. 1968 Richmond Councilmanic Election; percentage by candidate, white and black precincts.

1970 RICHMOND COUNCILMANIC ELECTION

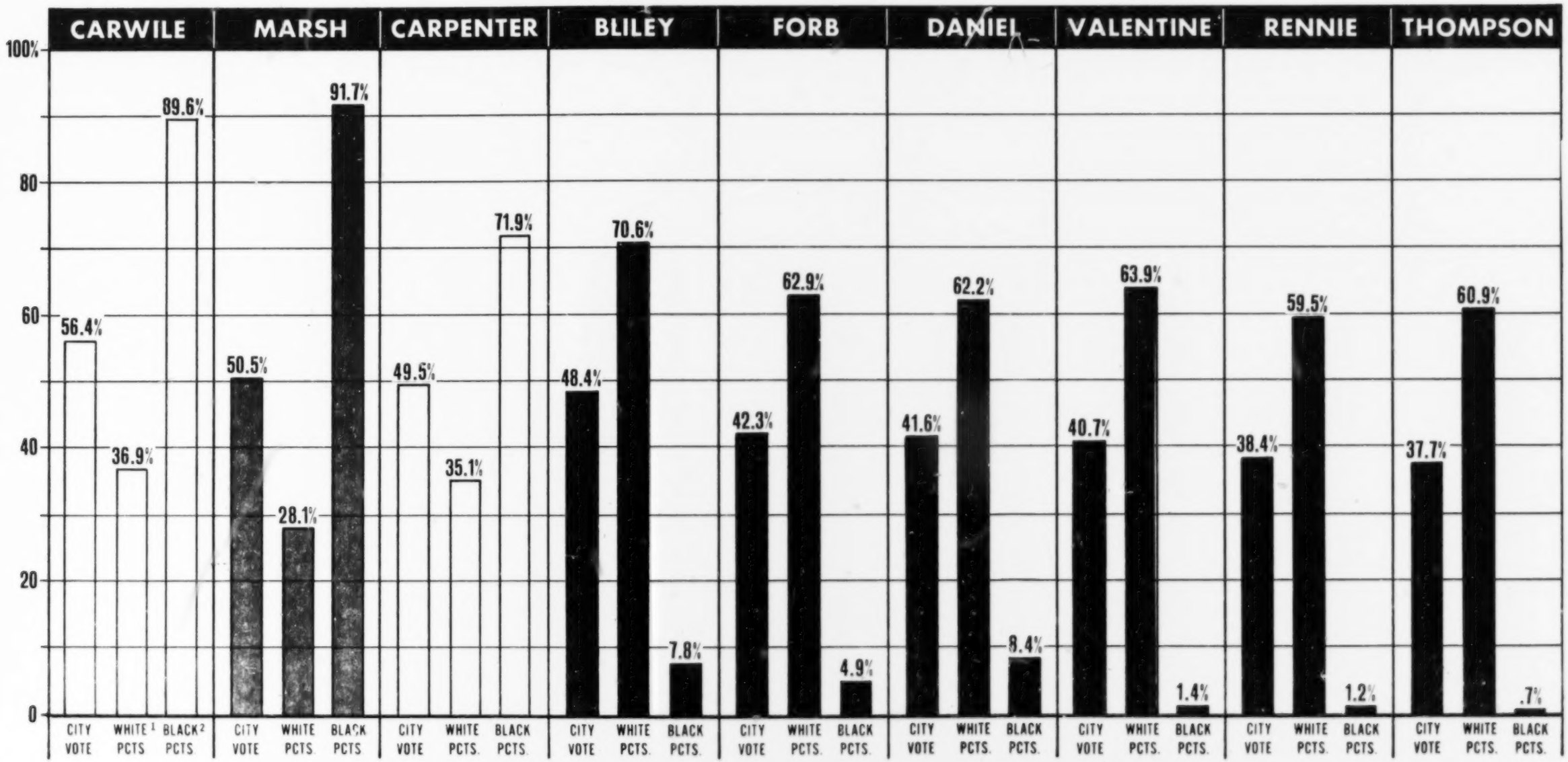


Exhibit 9, 1970 Richmond Councilmanic Election; percentage by candidate, white and black precincts.

1. 32 PRECINCTS WHICH ARE OVER 97% WHITE
2. 8 PRECINCTS WHICH ARE OVER 97% BLACK

BLACK CANDIDATES
WHITE CANDIDATES
WHITE CANDIDATES SUPPORTED BY THE CRUSADE FOR VOTERS

1971 RICHMOND HOUSE OF DELEGATES ELECTION

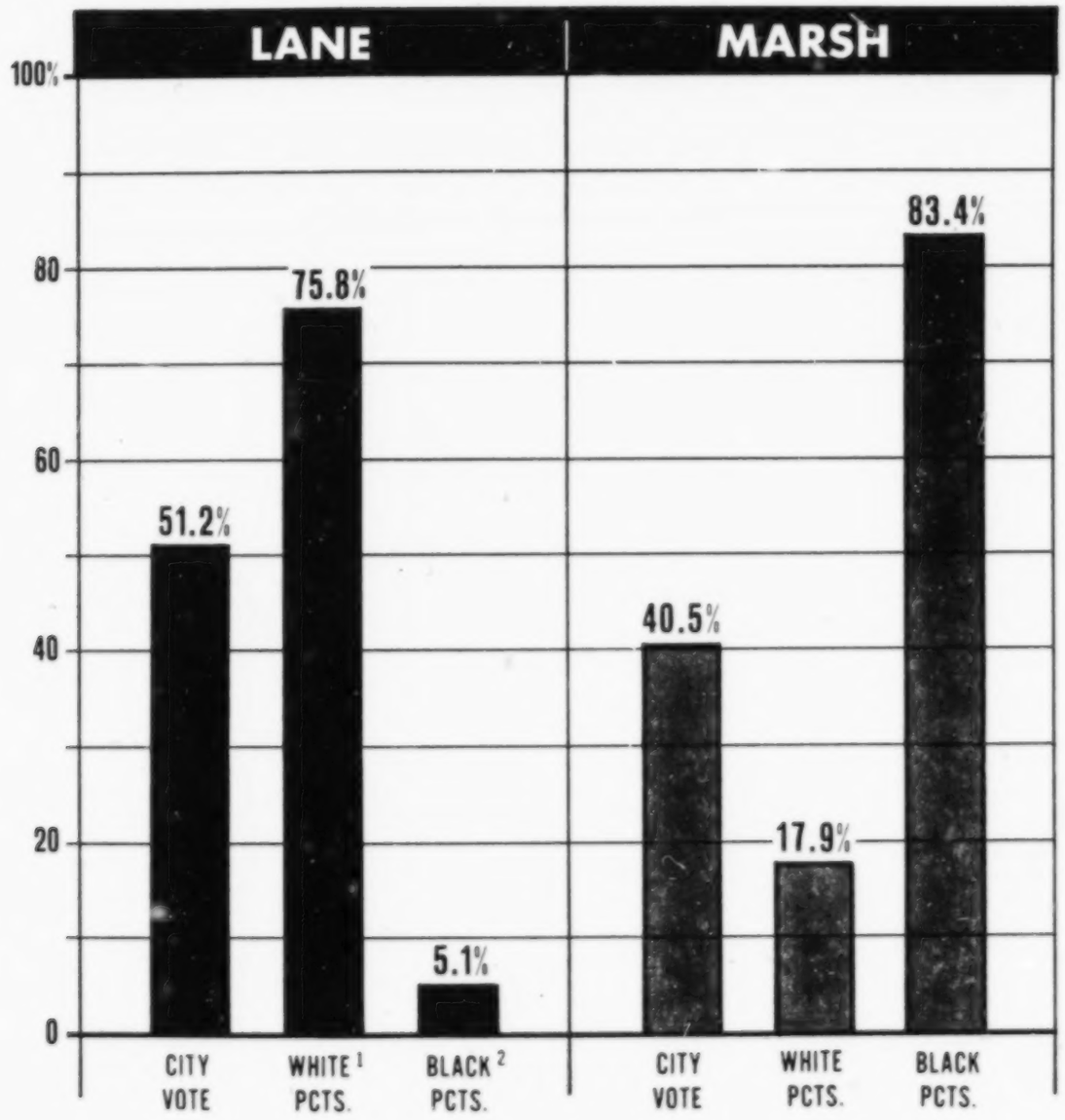


Exhibit 10, 1971 Richmond House of Delegates Election: percentage by candidate, white and black precincts.

Exhibit 11, 1966 through 1970 Elections; white and black precincts breakdown.

Precincts	Total votes cast for highest black candidate	% of votes cast for highest black candidate	Total votes cast for highest white candidate not[1] supported by CFV	% of votes for highest white candidate not supported by CFV	Total votes Cast
1966 COUNCILMANIC GENERAL ELECTIONS					
Black Precincts[2]	5,532	78.4%	2,743	38.9%	7,060
White Precincts[3]	5,922	54.1%	7,578	69.1%	10,956
1968 COUNCILMANIC GENERAL ELECTIONS					
Black Precincts	7,937	92.8%	1,141	13.3%	8,549
White Precincts	2,009	14.1%	12,297	86.5%	14,219
1970 COUNCILMANIC GENERAL ELECTIONS					
Black Precincts	7,145	91.7%	611	7.8%	7,790
White Precincts	5,987	28.1%	15,065	70.6%	21,337
1971 HOUSE OF DELEGATES ELECTION					
Black Precincts	5,918	83.4%	360	5.1%	7,089
White Precincts	3,995	17.9%	16,944	75.8%	22,339

[1] Some white candidates were supported by the predominately Black Crusade for Voters. They therefore had support in both black and white wards, and finished ahead of other white candidates. Their voting record is as follows:

[2] 8 precincts which are more than 97% black.

[3] 21 precincts which are more than 97% white.
(32 precincts in 1970 election)

1966 COUNCILMANIC GENERAL ELECTIONS

	Total votes Cast for Carwile	% of votes	Total votes Cast for Carpenter	% of votes	Total votes Cast for Bagley	% of votes	Total votes cast
Black Precincts	4,588	65.0%	*		3,896	55.2%	7,060
White Precincts	2,660	24.3%	*		8,420	76.9%	10,956

1968 COUNCILMANIC GENERAL ELECTIONS

Black Precincts	7,715	90.2%	6,284	73.5%	**		8,549
White Precincts	3,701	26.0%	3,877	27.3%	**		14,219

1970 COUNCILMANIC GENERAL ELECTIONS

Black Precincts	6,982	89.6%	5,602	71.9%	*		7,790
White Precincts	7,879	36.9%	7,484	35.1%	*		21,337

*Not a candidate in this election.

**Did not receive Crusade of Voters support in this election.

Bliley Foresees Eventual Choice In Voting Here

Mayor Thomas J. Bliley Jr. told the Richmond-FirstClub yesterday that the organization could help force a referendum, if one is needed in the future, to let city residents decide how they want councilmen men elected.

Bliley was looking to 1975 or later, following the expiration of the 1965 Voting Rights Act, which requires federal approval of any voting law changes in Southern states.

A nine-ward system, he indicated, could be used temporarily if it is ordered by federal authorities as a remedy for the dilution of black voting strength, which annexation opponents say resulted from the 1970 annexation.

First Ask

Speaking at Hotel John Marshall, Bliley said that citizens should first ask the City Council then in office to call for a referendum on the method of electing councilmen. If council does not call for a referendum, the Richmond-First Club and other groups could force a referendum by petition to the General Assembly, Bliley said.

"Reconstruction law, modern version," in the form of the Voting Rights Act, is part of the present city problem, Bliley said. He traced the history of city boundary expansion problems to the present situation, with the city having submitted to the Justice Department ward plans that would have councilmen elected from individual districts, rather than by at-large voting, the present system.

Bliley rapped Raymond H. Boone, editor of the Richmond Afro-American newspaper, for a recent front-page editorial that was critical of the recent Team of Progress effort to form a black-white coalition as an alternative to de-annexation or a ward system.

If the Richmond Crusade for Voters, a predominantly black political group, had backed the coalition, "we were prepared to sell it — we could have sold it" for the election of five whites and four blacks to City Council,

J. Holt Exhibit 1 – News Clippings.

Holt Ex. 1 (a)

Bliley said. But, he said, Boone's editorial was "shooting from the hip—this kind of statement is bad for the city."

Turning again to the federal laws that are causing city problems, Bliley said, "I fervently hope that the Votings Rights Act will expire — I pledge that I will do all in my power to force a referendum to see that the people of the city get the kind of government they want."

"Government by consent of the governed — this is what we want," Bliley said. Vice Mayor Henry L. Marsh III, as a representative of the black community, recently refused to accept a 5-4 voting plan offered by Bliley and other Team of Progress leaders. Marsh, said Bliley, wanted a plan to assure the election of five blacks and four whites.

Under a nine-ward plan, Bliley predicts a "log-rolling tug of war" over capital improvements for various wards. Urban renewal plans such as Washington Park, Randolph and Fulton might never have been voted the millions needed under a nine-ward plan, Bliley said.

Also yesterday, City Atty. Conard B. Mattox Jr. notified W. H. C. Venable, counsel for Curtis Holt Sr., an intervenor in the Washington litigation, and James W. Benton Jr., counsel for the Richmond Crusade for Voters, that he has delivered to the Justice Department copies of the ward plans.

Richmond Times-Dispatch, Thurs., April 26, 1973

City Gets 9-Ward Plan For Council Election

By James E. Davis

The Justice Department approved yesterday a nine-ward system to be used for electing City Council members.

Mayor Thomas J. Bliley Jr. made public the federal approval at a council budget meeting last night.

Related Map, B-5

Bliley called for action at a concil meeting at 7 p.m. Tuesday to authorize city Atty. Conard B. Mattox Jr. to ask the U. S. District Court of the District of Columbia to order the adoption of the nine-ward plan.

The plan is basically the same as published earlier in The Times-Dispatch. There would be six wards north of the James River and three south of the river. The population in the nine wards would range from 26,441 to 29,099, figures that Mattox said in response to a question from Councilman James G. Carpenter would be within legal limits.

"A majority of the present council earlier had indicated it favors a nine-ward system if the system can bring approval by federal authorities of the 1970 annexation and ward off deannexation efforts.

Richmond has been trying since 1971 to win Justice Department approval for the 1970 annexation of about 47,000 Chesterfield County residents, most of them white. Federal approval of annexation as a voting law change is required by the 1965 Voting Rights Act.

Mayor Bliley said he is "very pleased the city has received an accommodation with the Justice Department—I am not happy we have to do this (go to a nine-ward system), but this is what we have to do.

'I hope the act (1965 Voting Rights Act) will expire in 1975 and Richmond citizens can have a referendum to decide how they want councilmen elected.

In 1947, Richmonders voted to begin the present system of electing all nine councilmen at large, a method used through the June 1970 election. But there has been no election since 1970. The regular two-year terms of all nine councilmen expired June 30, 1972. A U. S. Supreme Court injunction halted the scheduled election of May 2, 1972, pending solution of the problems caused by dilution of black voting strength and failure of the city to win Justice Department approval for the annexation. The Voting Rights Act required prior federal approval before new laws affecting voting in certain southern

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City Gets Nine-Ward Plan For Election of Council

Continued From First Page

the Washington court with the ward plan, final determination by the court could come by June. If there is no appeal to the U. S. Supreme Court, "we are maybe talking about an election in September," said Mattox.

The Richmond Crusade for Voters, intervenors in the litigation is to meet at 8 o'clock Monday night at Slaughter's Hotel, according to the president, Mrs. Edwina Hall, and may act to consider the latest development in the ward-deannexation controversy.

Carpenter said last night, "I'm going to see if the lines are nonracially drawn—I'm going to look at this very carefully."

Vice Mayor Henry L. Marsh III, the only black member of the present council, was not present.

Councilman Wayland W. Rennie favors the plan approved by the Justice Department, as he said in a letter to Mattox earlier. Others who have voted for the plan in the past are Mayor Bliley, Councilmen Henry L. Valentine, William V. Daniel and Nathan J. Forb. Councilman Aubrey H. Thompson, a resident of the territory annexed in 1970, has consistently voted against a ward system.

Mattox cautioned council last night that the Washington court is yet to consider the matter, even though Justice Department approval shifts that agency to the city's point of view in the litigation.

Richmond's lawyers last month unanimously urged City Council to seek Justice Department approval for the nine-ward plan, warning that deannexation was possible. The team of city lawyers includes Charles Rhyne of Washington; former City Manager Horace H. Edwards, John S. Davenport III and former assistant City Atty. Daniel T. Balfour.

asked Mattox how soon an election may be held under the nine-ward system.

Mattox said that assuming council authorizes his move into

Continued on Page 6, Col. 1

states can become effective. Annexation opponents have argued that the annexation is invalid, but the city has maintained control over the territory.

Councilman Nathan J. Forb

183

Five of the present nine councilmen live in the West End ward north of the James River on the map approved by the Justice Department. They are Mayor Bliley, Forb, Daniel, Valentine and Howard H. Carwile. Bliley, Daniel and Carwile have announced they are not candidates for re-election. Daniel is leaving council July 2 because of the press of business; Carwile is leaving at the same time to begin his campaign for election to the Richmond-Henrico floater seat in the Virginia House of Delegates, running as an independent.

Bliley, too, is leaving because of the press of business, but he has not set a definite date.

Four councilmen, Thompson, Rennie, Carpenter and Marsh, live in wards not occupied by other incumbents.

City Hall sources say that black Richmonders would predominate in five wards, whites in four. Although there appears to be little population difference among the wards, the number of registered voters differs as much as 100 per cent among between some.

The West End ward north of the river, for example, has 19,245 of the city's 121,018 registered voters, while the ward in the area of old South Richmond has only 9,694 registered voters.

VIRGINIA: At an adjourned meeting of the Board of Supervisors of Chesterfield County, held at the Courthouse on October 13, 1971 at 9:00 a.m.

On motion of the entire Board, it is resolved that if the Executive Secretary of Chesterfield County is called to testify in the Curtis Holt suit and asked the attitude of the County to the de-annexation of the territory awarded to Richmond effective January 1, 1970, that he be authorized to inform the Court that the Board of Supervisors of Chesterfield has been advised by its financial advisors that the County is capable of assuming any legal obligations that may fall upon it as a result of such action and that the Board would welcome the opportunity to reassume jurisdiction of the annexed area.

Ayes: Mr. Horner, Mr. Browning, Mr. Apperson, Mr. Dietsch, Mr. Martin and Mr. Purdy.

A Copy: Teste- s/s M. W. [illegible]
County Administrator

K. Holt, Exhibit 2 – Resolution.

L. Proposed Findings of Fact and Conclusions of Law, filed by the Intervenor Crusade for Voters, with the Special Master, November 27, 1973.

[Caption omitted in printing]

DEFENDANT-INTERVENOR CRUSADE FOR VOTERS PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Basic Demography

1. On July 12, 1969, the Circuit Court of the County of Chesterfield, Virginia entered a final order of annexation awarding the City of Richmond approximately 23 square miles of Chesterfield County. The annexation became effective December 31, 1969.

Holt v. *Richmond* Record.

2. The population of the City of Richmond, Virginia, as of 1970, not including the portion of Chesterfield County which was annexed on December 31, 1969, was 203,359, of which 105,209 were non-white and 98,140 were white.

City of Richmond Exhibits 1, 2 and 3.

3. The population of the annexed area as of 1970 was 46,262, of which 555 were non-white and 45,707 were white.

City of Richmond Exhibits 1, 2 and 3.

4. The City of Richmond is governed by a nine member City Council. From 1948 to the present time, the City of Richmond has held at-large elections for the nine City Council seats.

Virginia Acts of Assembly, Chapter 116, § 3.01 (Richmond City Charter).

B. History of Racial Discrimination in Richmond

5. The housing pattern in the City of Richmond is mostly segregated. Race is the dominant factor in determining the quality of life that people enjoy in the City of Richmond.

Testimony of Henry Marsh, p. 583-584.

6. There has been a history of discrimination against blacks in Richmond. For example, "tests" and "devices" were used until the passage of the Voting Rights Act in 1965, and until 1966, it was necessary for a voter in the City of Richmond to pay a poll tax before being permitted to vote in Councilmanic elections. Public schools were segregated by law until recently.

Code of Virginia, 1950, § 24-27, § 24-67;
Constitution of Virginia § § 18, 21 and 22;
Testimony of W. S. Thornton, p. 20, *Holt* v. *Richmond* Testimony.

7. The number of qualified black voters in the old portion of the City of Richmond increased from approximately 4,000 in 1956 to more than 35,000 in 1970.

Testimony of W. S. Thornton, p. 14, *Holt* v. *Richmond* Testimony.

8. There are approximately twice as many registered voters in the white wards as in the black wards in the City of Richmond.

Testimony of Henry Marsh, p. 589-590.

C. Political Activity in Richmond.

9. The Crusade for Voters of Richmond, Virginia is an unincorporated association composed primarily of black voters which has been active for two decades in representing and asserting the views of Richmond's black citizens, especially with regard to voting.

Testimony of William S. Thornton pp. 9-12, *Holt* v. *Richmond* Testimony.

10. The Crusade for Voters has endorsed candidates for City Council who it thought would be favorable to black people in Richmond. The candidates endorsed by the Crusade for Voters have received much greater support from blacks than candidates of either race who were not endorsed by the Crusade for Voters. Three candidates endorsed by the Crusade for Voters were elected to the City Council in 1970, Mr. Carwile, Mr. Carpenter and Mr. Marsh.

Testimony of William S. Thornton, pp. 24-34, *Holt* v. *Richmond* Testimony;

Testimony of Thomas J. Bliley, Jr. pp. 333-334, *Holt* v. *Richmond* Testimony.

11. The Crusade for Voters does not lend financial support to candidates.

Testimony of William S. Thornton, p. 12, *Holt* v. *Richmond* Testimony.

12. Richmond Forward was a white political organization which controlled the Richmond City Council in the late 1960's.

Testimony of William S. Thornton pp. 24-26, *Holt* v. *Richmond* Testimony;

Testimony of Ronald P. Livington pp. 294-295, *Holt* v. *Richmond* Testimony;

Testimony of Roger C. Griffen, pp. 267-268, *Holt* v. *Richmond* Testimony;

Testimony of Thomas J. Bliley, pp. 347-351, *Holt* v. *Richmond* Testimony.

13. Richmond Forward endorsed and financed the campaigns of candidates for City Council.

Testimony of Thomas J. Bliley, p. 71.

14. Richmond Forward prepared a report analyzing the 1968 election in terms of racial voting patterns.

Testimony of Thomas J. Bliley, p. 334, *Holt* v. *Richmond* Testimony.

15. The Richmond Forward organization was succeeded by a white political organization known as the Team of Progress.

Testimony of Thomas J. Bliley, Jr., p. 75.

16. Of the six City Councilmen elected in 1970 who were endorsed by the Team of Progress four reside within a small area in the northwest portion of the City.

City of Richmond, Exhibit 16;
Testimony of Thomas J. Bliley, Jr., pp. 66-69
Defendant United States, Exhibit 9.

17. In recent Richmond City Council elections black candidates endorsed by the Crusade for Voters have received a high percentage of the black vote and a low percentage of the white vote while white candidates not endorsed by the Crusade for Voters have received a high percentage of the white vote and a low percentage of the black vote.

Defendant, United States Exhibits 3-10.

18. In the 1970 election if only the votes cast by residents of the pre-1970 annexation portion of the city had been counted, an additional black candidate endorsed by the Crusade for Voters would have been elected.

Testimony of William Thornton, p. 34-35, *Holt* v. *Richmond* Testimony.

19. In the 1970 election the precincts in the annexed area voted heavily for white candidates and heavily against black candidates.

Defendant, United States Exhibit 5;
Plaintiff Exhibit 3, *Holt* v. *Richmond* Record.

D. History of Annexation

20. On July 2, 1962, the City of Richmond filed an Annexation Suite aginst the County of Chesterfield, Virginia, seeking the annexation of fifty-one square miles of Chesterfield County.

Defendant's Exhibit 18, *Holt* v. *Richmond* Record.

21. On May 15, 1969, a compromise boundary line was drawn known as the Horner-Bagley line, by which approximately 23 square miles of Chesterfield County would be annexed by the City of Richmond.

Testimony of Melvin W. Burnett, p. 18, *Holt* v. *Richmond* Testimony;

Testimony of Irvin G. Horner, pp. 173, 174, *Holt* v. *Richmond* Testimony;

Testimony of Phil J. Bagley, Jr., pp. 413-420, *Holt* v. *Richmond* Testimony.

22. The Horner-Bagley line was agreed upon after extensive secret negotiations between certain representatives of the City of Richmond and representatives of Chesterfield County. In all meetings with regard to settlement the City maintained a consistent position that required all negotiations to center upon and be concerned with the number of white people that the City would receive by settlement. All economic, geographical and other considerations were simply not discussed or were brushed aside. In the words of the City Manager, the City had to "balance the population." The acceptable mini-

mum number remained relative constant at 44,000 people. The City was careful to ascertain racial percentage figures from the county during its negotiations. The final line was not actually drawn until the Mayor of the City, Mr. Bagley, had assurances that at least 44,000 white people would be given up by the County.

Testimony of Melvin W. Burnett, pp. 92-112, 120, *Holt* v. *Richmond* Testimony;

Testimony of Irvin Horner, pp. 145-179, *Holt* v. *Richmond* Testimony.

23. At all times during the course of the negotiations with representatives of Chesterfield County, the Mayor was in constant contact with the six Richmond City Councilmen endorsed by Richmond Forward. All Council representatives of the black citizens were, however, systematically excluded from all meetings and conferences. The representatives of black citizens knew nothing of the policy questions involving the annexation until after they became public knowledge.

Testimony of Henry L. Marsh, pp. 64-71, 81, *Holt* v. *Richmond* Record;

Testimony of Melvin W. Burnette, p. 102, *Holt* v. *Richmond* Testimony;

Testimony of Donald Pendleton, pp. 215-216, *Holt* v. *Richmond* Testimony;

Testimony of James Carpenter, pp. 226-227, *Holt* v. *Richmond* Testimony;

Testimony of Thomas J. Bliley, pp. 350, 353-355, *Holt* v. *Richmond* Testimony;

Testimony of Phil J. Bagley. 423, 424, 431-432, *Holt* v. *Richmond* Testimony;

Testimony of Alan F. Kiepper, pp. 563, 567, 570-572, 611-614, 619-621, *Holt* v. *Richmond* Testimony.

24. Mr. Talcott, the City Boundary Expansion Coordinator, who gathered and had available all information concerning vacant land, economics, taxes, schools, utilities, etc., was not consulted for any information whatsoever concerning a compromise, by either the Mayor, the City Council or the Attorneys in the suit, until after the compromise had been reached. Mr. Talcott was not even aware that such a compromise had been reached until some 11 days after the fact.

Testimony of George R. Talcott, pp. 319-321, *Holt* v. *Richmond* Testimony.

25. At the time the Agreement was entered into, the City Council and the Mayor had no information by which they could evaluate a compromise line agreement in any respect other than its size and the number of people it contained although such information is necessary in order to properly evaluate a line.

Testimony of Melvin W. Burnette, p. 120, *Holt* v. *Richmond* Testimony;

Testimony of George R. Talcott pp. 319-321, *Holt* v. *Richmond* Testimony;

Testimony of Thomas J. Bliley, p. 356, *Holt* v. *Richmond* Testimony;

Testimony of Phil J. Bagley, p. 428, *Holt* v. *Richmond* Testimony;

Testimony of A. Howe Todd, p. 524, *Holt* v. *Richmond* Testimony;

Testimony of Alan F. Kiepper, pp. 574, 577, *Holt* v. *Richmond* Testimony.

26. During the period May 16, 1969 to July 1, 1969, the Richmond City School Administration and the Assistant City Manager reported to the City Council and the City Manager for the first time, on school building needs, number of school children, population, vacant land, and financial needs in the annexed area.

Plaintiffs' Exhibit 13, *Holt* v. *Richmond* Record;

Testimony of George R. Talcott, pp. 140-142 *Holt* v. *Richmond* Testimony.

27. Annexations in Virginia become effective at midnight on December 31 of the year in which the annexation order becomes final.

Virginia Code § 15.1-1041(d).

28. Mayor Bagley and Councilman Davenport made acceptance of the Horner-Bagley line conditional on the fact that the annexation would go into effect January 1, 1970, and the people in the annexed area would be eligible to vote in the Councilmanic elections of 1970.

Testimony of Irvin Horner, pp. 177-178, *Holt* v. *Richmond* Testimony.

29. The final boundary line for the annexation, as drawn by the Court, followed with near exactness the compromise which had been made between Horner and Bagley.

Testimony of Irvin Horner, pp. 174-175, *Holt* v. *Richmond* Testimony.

30. The area of Chesterfield County annexed to the City of Richmond contained 475 acres of potential industrial land and 729 acres of potential commercial land as opposed to 1,819 acres and 1,431 acres respectively in the area originally sought to be annexed.

Plaintiffs' Exhibit 15, *Holt* v. *Richmond* Record.

31. The area of Chesterfield County annexed to the City of Richmond contained 51% of the value of the tax assessable property in the total area sought to be annexed, 59% of the school age children, 60% of the total population, and 46% of the total land area.

Plaintiffs' Exhibit 15, *Holt* v. *Richmond* Record.

32. During the course of the annexation proceedings and shortly thereafter, various officials of the City made statements on the annexation as follows:

(a) In 1966, at Fairfield, Virginia, City Councilman James C. Wheat Jr., stated that the City needed 44,000 leadership-type white affluent people.

Testimony of Irvin C. Horner, pp. 152, *Holt* v. *Richmond* Testimony.

(b) Between July 16, 1968 and September 12, 1968, Mr. Alan F. Kiepper, Richmond City Manager, and Mr. Melvin W. Burnett, Executive Secretary of the Board of Supervisors of Chesterfield County, met to negotiate the pending annexation suit. At those meetings, the only consideration stated by Mr. Kiepper was the number of white and black people in the area to be annexed.

Testimony of Melvin W. Burnett, pp. 97-111, *Holt* v. *Richmond* Testimony.

(c) At a meeting in Williamsburg, Virginia in March of 1969, Mr. Connard B. Mattox, City Attorney; Mayor Crowe and Mr. Phil J. Bagley, Jr., stated to Irvin G. Horner, Chairman of the Board of Supervisors of Chesterfield County, that the City must annex a part of Chesterfield County or the City of Richmond would become all black.

Testimony of Irvin G. Horner, pp. 162-165, *Holt* v. *Richmond* Testimony.

(d) At a meeting of the Aldhizer Commission in July of 1968, Mr. Willey, Representing the City of Richmond said to Donald C. Pendelton, Member of the House of Delegates, that the City was concerned about the 1970 election going all black and the City of Richmond becoming "another Washington, D. C.".

Testimony of Donald G. Pendelton, pp. 212, 213 *Holt* v. *Richmond* Testimony.

(e) In the fall of 1968 in a meeting with Mr. Leland Bassett, at Charlottesville, Virginia, Mayor Phil J. Bagley, Jr., stated "As long as I am Mayor of the City of Richmond, the niggers will not take over this town", and also expressed concern about the City of Richmond becoming "another Washington, D. C.".

Testimony of Leland Bassett, pp. 165-168, *Holt* v. *Richmond* Testimony.

(f) In February of 1970 at the Willow Oaks Country Club, Mr. Henry Valentine, City Councilman, and Mr. Nathan Forb, City Councilman, stated that the purpose of the annexation was to keep the City from going all black.

Testimony of George W. Jones, pp. 253-255, *Holt* v. *Richmond* Testimony;

Testimony of Roger C. Griffin, pp. 270-273, *Holt* v. *Richmond* Testimony;

Testimony of Ronald P. Livingston, pp. 264-266, *Holt* v. *Richmond* Testimony.

(g) On September 12, 1970, at a meeting of the Virginia Municipal League, Mayor Phil J. Bagley, Jr., stated to Mr. James G. Carpenter, that "Niggers are not qualified to run the city."

Testimony of James G. Carpenter, pp. 230, *Holt* v. *Richmond* Testimony.

E. Purpose and Effect of Annexation

33A. Based on the foregoing facts, the Court finds that the City of Richmond has not met its burden of proving that the annexation did not have the purpose of diluting black citizens' votes.

33B. Based on the foregoing facts, the Court finds that the City of Richmond has not met its burden of proving that the annexation did not have the effect of diluting black citizens' votes.

F. Submission of Annexation to Attorney General

34. In 1971, the annexation and the concommitant changes in election practice or procedure were submitted to the Attorney General for his review pursuant to § 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c.

Plaintiffs' Request for Admission of Facts #7 and Parties' Responses thereto.

35. The Crusade for Voters urged an objection to the approval of the annexation by the Attorney General.

Stipulation of Parties, pp. 701-702.

36. On May 7, 1971, the Attorney General interposed an objection to the voting changes which resulted from the annexation, and on September 30, 1971, the Attorney General refused to withdraw the objection.

Plaintiffs' Request for Admission of Facts #8 and 9 and the Parties' Responses thereto.

G. Preparation of Ward Plans

37. During 1971 the City of Richmond prepared several possible plans for dividing the City into Councilmanic election districts. At least 3 nine district, 2 five district, a six district, and a two district plan were prepared. Every one of the plans included a district which crossed the James River.

City of Richmond Exhibits 12, 13;
Crusade for Voters Exhibits 1, 2, 3, 4, 5;
Testimony of Dallas Oslin, pp. 213, 295-297.

38. An additional nine district plan known as Plan D was prepared in 1973. No ward in Plan D crossed the river.

Testimony of Dallas Oslin, pp. 213;
City of Richmond Exhibit 14.

39. Dallis Oslin, who prepared all of the various ward plans first testified that he had not received any instructions as to how he should draw the ward plans and later testified that he had been told to keep the maximum population deviation to less than four or five percent (apparently meaning that no district should deviate from the ideal by more than four or five percent).

Testimony of Dallas Oslin, pp. 235-236, 292-293.

40. There was conflicting testimony as to the impetus for the preparation of Plan D.

Testimony of Thomas J. Bliley, pp. 99-100;
Testimony of Dallas Oslin, p. 300.

41. The maximum amount by which any district deviated from the ideal on the various nine ward plans which were later presented to the Department of Justice is as follows:

Plan A (Crusade for Voters Exhibit 3)	4.17%
Plan B (City of Richmond Exhibit 13)	3.24%
Plan C (City of Richmond Exhibit 12)	3.24%
Plan D (City of Richmond Exhibit 14)	4.99%

Plans A, B and C all contain wards which straddle the river and were prepared in 1971.

Crusade for Voters Exhibit 3;

City of Richmond Exhibits 1, 2, 3, 12, 13, 14.

42. The maximum amount by which any district deviated from the ideal on the six ward plan prepared in 1971 was 4.72%.

Crusade for Voters Exhibit 2;

City of Richmond Exhibits 1, 2 and 3.

H. Submission of Plans to Department of Justice

43. On April 9, 1973 the City of Richmond presented the four nine ward plans to the Department of Justice. Three of the plans contained wards which straddle the James River.

Testimony of Thomas J. Bliley, p. 114;

Testimony of Dallas Oslin, p. 213-214;

City of Richmond Exhibits 12, 13 and 14;

Crusade for Voters Exhibit 3.

44. After consultations with the Department of Justice a new plan was prepared which was essentially a revision of Plan D. The maximum amount by which any district deviates from the ideal on this new plan is 4.99%.

Testimony of Thomas J. Bliley, pp. 58-59;

City of Richmond Exhibit 15.

45. On May 1, 1973 the Richmond City Council formally adopted the newly prepared ward plan dated April 25, 1973.

City of Richmond Exhibits 15, 17.

46.. There is no evidence that the City ever thereafter sought to draw or modify any districting plans in any manner.

I. Factors Used in Preparing Ward Plans

47. There is no evidence that in drawing, analyzing or adopting any districting plans, the City made any attempt to minimize the dilution of the black vote which had been caused by the annexation.

Testimony of Dallas Oslin, pp. 216, 306-308.

48. Dallas Oslin drew all the City's plans wholly by himself. Mr. Oslin is a technician who lives outside Richmond and who indicated unfamiliarity with the interests or attitudes of people in various neighborhoods, except those interests which have come up in connection with specific zoning or similar issues.

Testimony of Dallas Oslin, pp. 276-288.

49. The principal factors purportedly followed by Dallas Oslin in preparing the City's ward plans, apart from population equality, were "communities of interest," neighborhoods, and respect for physical boundaries.

Testimony of Dallas Oslin, p. 215.

50. The other two City witnesses, Mayor Bliley and Mr. Todd, generally agreed that the factors noted by Mr. Oslin were the proper ones to be used.

Testimony of Thomas Bliley, pp. 63-64;

Testimony of A. Howe Todd, pp. 344-345; 424-425.

51. Vice-Mayor Henry Marsh, testifying for Defendant-Intervenor Crusade for Voters, disagreed and said that the two critical factors should be population equality and minimization of dilution. He agreed that maintenance of neighborhoods was also important, but said that physical boundaries are netural and that the concept of "communities of interest" was not relevant.

Testimony of Henry Marsh, pp. 581-585.

52. The decision whether a districting plan satisfied appropriate criteria (properly weighed) is a question of law, but the Court believes it instructive to set forth the testimony on these points as presented by the various witnesses. As will be seen below, there was general agreement that it is desirable to keep neighborhoods intact, but conflict over whether the concepts of "communities of interest" and "physical boundaries" are meaningful or offer any useful guide in drawing districts.

Neighborhoods

53. Neighborhoods are small areas generally consisting of a few hundred to a few thousand people. The number of neighborhoods in Richmond was variously estimated at 50-60 to 200-300. Many neighborhoods have civic associations, of which there are 60 or more.

Testimony of Henry Marsh, pp. 580-582;

Testimony of A. Howe Todd, p. 428;

Testimony of Dallas Oslin, pp. 272-276.

54. Because the size of wards in Richmond is large in comparison to the size of neighborhoods, every ward will be a combination of a large number of different neighborhoods.

Testimony of Dallas Oslin, pp. 278, 286-287

Testimony of A. Howe Todd, pp. 445-460.

55. Splitting of neighborhoods should be kept to a minimum. Because they are so small, however, it is generally not difficult to move a line slightly to keep a neighborhood together.

Testimony of Dallas Oslin, p. 290;

Testimony of Henry Marsh, p. 582.

56. In each plan, however, some neighborhoods were split. For example, the City plan splits the Fan District, parts of Chamberlayne Avenue, Westover Hills and Barton Heights, while the Crusade for Voters plan (Exhibit 21) splits Gilpin Court Apartments:

Testimony of Thomas J. Bliley, pp. 176-177;

Testimony of Dallas Oslin, p. 291;

Testimony of Henry Marsh, pp. 585-586;

Testimony of A. Howe Todd, pp. 455-456, 496-497, 707.

Communities of Interest

57. The City witnesses testified that "community of interest" is a meaningful term referring to the combination of homogeneous people of similar interests in the same ward. Each of these witnesses had difficulty telling how to determine the interests of various citizens, except for their repeated statements that people living on opposite sides of the river had different interests. Mr.

Todd also testified that the "interests" involved related to local services and facilities, but not to politics. The City witnesses did not appear to believe that race was a significant factor in defining "communities of interest."

Testimony of Thomas J. Bliley, pp. 134-135, 137;

Testimony of Dallas Oslin, pp. 227-232;

Testimony of A. Howe Todd, pp. 401-410, 428-492.

58. Nine in the City connected with either the preparation or adoption of the ward plans undertook any study of the attitudes and issues then affecting or creating communities of interest within the City of Richmond.

Testimony of Thomas J. Bliley, pp. 136;

Testimony of Dallas Oslin, pp. 277-278;

Testimony of A. Howe Todd, pp. 354-355, 489-490.

59. Vice Mayor Marsh, on the other hand, testified that it would be impossible to make any general determinations about "community of interests," because there were few if any instances where a given group of people shared interests in general with another specific group of people. Rather, every citizen is likely to share different interests with various other citizens. "Communities of interest" are issue-oriented and are likely to form, shift and dissipate within short periods of time as issues change. He also testified that neighborhoods could

have much or little to do with various communities of interest, and that people within a given neighborhood could share interests or not. City witnesses agreed that people's interests often had little to do with their neighborhoods.

Testimony of Henry Marsh, pp. 581-594;

Testimony of Dallas Oslin, pp. 283-287.

Physical Boundaries

60. The use of physical boundaries such as parks, highways, railroads and rivers as dividing lines between wards is deceptive because such physical boundaries, no matter how striking they look on a map, are neutral factors. Physical boundaries may unite people or may divide them.

Testimony of Henry Marsh, p. 584;

Testimony of A. Howe Todd, p. 426.

61. Citizens who live near the James River on the south side and citizens who live near the James River on the north side currently have a particular community of interest with each other with regard to the river which they do not share with citizens who do not live close to the river.

Testimony of Henry Marsh, pp. 586-587.

62. Citizens who live in the apartment buildings which line the east side of Chamberlayne Avenue share a

community of interest with citizens who live in the apartment buildings which line the west side of Chamberlayne Avenue. That community of interest is not shared by the other citizens who live in Ward B or Ward C which wards lie respectively to the east and to the west of Chamberlayne Avenue according to the City's plan.

Testimony of Henry Marsh, pp. 585-586.

63. The ward plan adopted by the City of Richmond contains numerous instances of wards which straddle such natural boundaries as Forest Hill Park, Interstate Route 95, and the Richmond Metropolitan Authority Tollroad.

Testimony of A. Howe Todd, pp. 491-498, 716;

Testimony of Thomas J. Bliley, pp. 174-177;

Testimony of Dallas Oslin, pp. 318-321.

63A. The City Council never discussed the concept of nor gave instructions to anyone with regard to drawing ward plans with regard to "communities of interest" or neighborhoods.

Testimony of Thomas J. Bliley, pp. 135-136.

64. Based on Findings of Fact 47-63, the Court makes the following Finding about neighborhoods and "communities of interest." Neighborhoods are small areas which form the building blocks of wards, and it is appropriate to avoid splitting these building blocks wherever possible.

The term "communities of interest," however, seems to refer to judgments concerning the ways in which the small building blocks are combined. Since all groupings of neighborhoods into wards will involve combining heterogeneous people and neighborhoods, it is illusory to think that a concept like "communities of interest" can offer definitive guideposts that would point strongly to selecting one plan or set of lines over another. Accordingly, the Court finds that standards based upon physical boundaries and the concept of "communities of interest" are insufficiently intelligible or definite to offer a very useful guide in drawing districts. While they are not impermissible criteria, the Court cannot find that they should be elevated to a status comparable to the primary requirement of population equality and minimization of dilution.

J. The James River as a Factor in Preparing a Ward Plan

65. The City's principal argument in favor of its plan is that the James River is a natural physical boundary which should not be crossed by any ward. This refrain was repeated at every opportunity during the trial, e.g., Testimony of Thomas Bliley, pp. 139-140, 146, 194.

66. This insistence on the importance of the river as a boundary is a recent phenomenon. Every ward plan prepared prior to 1973 contained a ward which straddled the river.

Testimony of Thomas J. Bliley, p. 171.

67. Two of the plans prepared by the City of Richmond in 1971 were introduced by the City in *Holt* v. *Richmond* as possible remedies. Both of those plans contained wards which straddle the James River.

City of Richmond Submission, *Holt* v. *Richmond* Record.

68. Indeed, there has been stiff opposition to the adoption of any nine ward plan, and a preference for a five ward plan, by most of the Richmond Forward – Team of Progress members of City Council.

Testimony of Thomas J. Bliley, pp. 90, 95, 105-108,

Crusade for Voters Exhibits 9 and 11.

69. Because of population distribution, any five-ward plan would have to have at least one ward straddle the James River.

City of Richmond Exhibits 1, 2 and 3;

Crusade for Voters Exhibits 1 and 5.

70. There is no evidence that the City had any interest, prior to 1973, in avoiding wards which crossed the James River. When plan D, which used the river as a boundary, was drawn in March, 1973, there were some citizens who favored it and some who opposed it at a March 27, 1973 meeting of the City Council. After that

meeting (which was concluded on April 2), the City Attorney took all four nine-ward plans to the Justice Department. Mayor Bliley testified that a number of citizens voiced opposition to a ward crossing the river, but he remembered no names nor the substance of any conversations, gave no times, and there is no indication in any City Council actions or minutes or in a news account of the March 27 meeting that the river was then regarded as an important factor.

71. If the James River is accepted as an inviolable boundary in dividing the City of Richmond into nine wards it places an automatic limitation upon the number of wards with a majority of black registered voters or even of black citizens.

City of Richmond Exhibits 1, 2 and 3;

Testimony of Henry Marsh, pp. 610-615..

72. Mayor Bliley testified that the river should be respected as a boundary even if it resulted in seven "white" and two "black" wards.

Testimony of Thomas J. Bliley, p. 194.

73. The City of Petersburg, Virginia was divided into seven councilmanic wards pursuant to a declaratory judgment of this Court. In an election held on June 12, 1973, a black majority was elected to the Petersburg City Council.

City of Petersburg v. *United States*, 354 F. Supp. 1021 (D.C. D.C. 1972), aff'd U.S. (1973).

74. The City of Richmond did not assert that the James River was an inviolable boundary until after it became evident that it would be necessary to prepare and justify a nine ward plan which did not minimize dilution to the greatest possible extent.

75. The City of Richmond knew as early as July 23, 1973 that a critical question in this case was whether it could justify a ward plan which did not eliminate dilution to as great extent as did certain plans prepared by the Crusade for Voters (which included wards crossing the river).

Transcript of Hearing of July 23, 1973, pp. 5-7.

76. Three weeks later, on August 13, 1973 the Richmond City Council by a vote of seven to two adopted a resolution reciting that the James River must be respected as a boundary on any ward plan for the City of Richmond. The two dissenting votes were cast by the two black members of the City Council. This is the only expression of City Council views on districting criteria, and there is no mention of population equality, minimization of dilution of black votes, or even of any other physical boundaries or "communities of interest."

City of Richmond Exhibit 19;

Testimony of Thomas J. Bliley, p. 121.

77. The only specific reasons presented by the City of Richmond to show why no ward should straddle the river were as follows:

(a) Mayor Bliley testified that people residing north of the river are interested in traversing the city in an east-west direction north of the river while people residing south of the river are interested in crossing the river traveling in a north-south direction.

Testimony of Thomas J. Bliley, p. 63;

See also Testimony of A. Howe Todd, pp. 411-412.

78. The City of Richmond is served by seven highway bridges which carry 28 lanes of traffic across the James River.

Testimony of Henry Marsh, p. 587.

79. Whether or not one or more wards straddle the James River, citizens will not have to cross the river in order to vote.

Testimony of Henry Marsh, p. 588.

80. The James River unites the people who live close to it even when they live on opposite sides, *e.g.*, those in Ward A with those in Ward D on the plan adopted by the City.

Testimony of Henry Marsh, pp. 586-587;

City of Richmond Exhibit 15.

81. Two state senatorial districts lie entirely within the Richmond City limits. Both of those districts straddle the James River. A third district includes part of the annexed area and part of the remainder of Chesterfield County.

Crusade Exhibit 12.

82. Until 1970, the City of Richmond operated a segregated school system. Under that system black high school students living south of the river were required to attend high schools north of the river notwithstanding the existence of a high school south of the river. Transportation was not provided to the students who were required to cross the river to attend school.

Testimony of Thomas J. Bliley, pp. 131-132;

Bradley v. *School Board of the City of Richmond*, 317 F. Supp. 555, 558, 561 (E.D. Va., 1970);

Crusade Exhibit 24.

83. The City of Richmond schools have been operated since 1971 under a Court approved desegregation plan prepared and submitted by the Richmond School Board. The members of the Richmond School Board are appointed by the Richmond City Council. Under the desegregation plan many students of all ages are required to cross the river to attend school. Elementary schools,

for example, on opposite sides of the river are paired. The City of Richmond did not provide transportation for school children until the 1972-1973 school year.

Crusade for Voters Exhibit 24;

Testimony of Thomas J. Bliley, pp. 123-124, 132.

84. Every individual who served as a City Councilman during the period from the mid-1950's until 1970 resided north of the river. This did not affect their ability to represent citizens who resided south of the river.

Testimony of Thomas J. Bliley, pp. 73-75;

Testimony of Henry Marsh, pp. 587-588.

85. The Court finds that the James River is not a racially neutral factor, but rather that any insistence that no ward can cross the river is racially discriminatory because it inevitably limits the degree to which dilution of black votes can be eliminated.

86. Based on the foregoing findings the Court finds that the City of Richmond has not proved that its interest in avoiding a ward which straddles the James River is sufficient to justify the dilution of black votes caused thereby.

K. Comparison of City Plan with Crusade for Voters Exhibit 21

87. The maximum amount by which any district deviates from the ideal on Crusade for Voters Exhibit 21 is 489 people, or 1.77%.

City of Richmond Exhibits 1, 2 and 3;

Crusade for Voters Exhibit 21.

88. The maximum amount by which any district deviates from the ideal on the plan adopted by the city is 1384 people, or 4.99%.

City of Richmond Exhibits 1, 2, 3 and 15.

89. Because a lower percentage of the black population is of voting age, the black voting age population of Ward H on the plan adopted by the City is significantly below 40% of the total voting age population of Ward H.

City of Richmond Exhibits 1, 2, 3 and 15.

90. The voter registration and participation in Ward H is higher for whites than for blacks.

Testimony of Henry Marsh, p. 590.

91. Wards A, B, D, H and I on the plan adopted by the City are white wards in the sense that the person elected from the ward would either be white or would be sympathetic to the "white point of view."

Testimony of Henry Marsh, p. 610.

92. Wards C, F, and G on the plan adopted by the City are black wards in the sense that the person elected from the ward would be black or would be sympathetic to the "black point of view."

Testimony of Henry Marsh, p. 611.

93. Ward E on the plan adopted by the City has a black population majority but nonetheless would be neither "white" nor "black" but would be a closely contested "swing" ward.

Testimony of Henry Marsh, pp. 611-613.

94. The annexation of 44,000 white people means that the process of drawing a district plan in effect begins with the equivalent of 1 - 1/2 wards of white people.

95. Crusade Exhibit 21 is, based upon a similar analysis of the composition of the wards, a plan for dividing the City of Richmond into nine wards which contains four "white", three "black" and two wards which, although they have a black majority of overall population, must be regarded as "swing."

Testimony of Henry Marsh, pp. 620-621.

96. Because of the small deviation of population among the wards on Crusade for Voters Exhibit 21 it is possible, without violating population equality, to adjust the lines to correct features of the plan, such as the division of the Gilpin Housing project, which the City finds objectionable.

Testimony of A. Howe Todd, pp. 727-728.

97. The City of Richmond has made no attempt to adjust the lines of the wards contained on Crusade Exhibit 21 to obviate any of the features of that plan which the City finds objectionable.

Testimony of A. Howe Todd, pp. 725-726.

98. On the basis of the Crusade Plan, the Court finds that it is possible to divide the City of Richmond into 9 relatively equal wards which respect neighborhood integrity while eliminating the dilutive effect of the annexation to a significantly greater degree than does the plan adopted by the City.

Crusade for Voters Exhibit 21.

PROPOSED CONCLUSIONS OF LAW

1. This Court has jurisdiction over this action pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973 c.

2. Plaintiff is a political subdivision of the Commonwealth of Virginia with respect to which the provisions of said section are in effect. 30 F.R. 9897, August 7, 1965.

3. The annexation of land from Chesterfield County on December 31, 1969, and the changes resulting therefrom are within the scope of Section 5 of the Voting Rights Act, 42 U.S.C. 1973 c. *Perkins* v. *Matthews*, 400 U.S. 379 (1971); *City of Petersburg* v. *United States* (D.C. D. Col. 1972), 354 F. Supp. 1021, aff'd, 410 U.S. 962 (1973).

4. In seeking to meet the requirements of Section 5 for enforcement of the voting changes brought about by the annexation, the City of Richmond bears the burden of proving both non-discriminatory purpose and non-discriminatory effect. This allocation of the burden means, among other things, that issues as to which the

evidence is in equipoise must be resolved against the City and that any inferences which must be drawn because of gaps in the evidence are likewise to be drawn against the City.

5. The City of Richmond has not met its burden of proving that the annexation did not have the purpose of diluting black citizens' votes.

6. The City of Richmond has not met its burden of proving that the annexation did not have the effect of diluting black citizens' votes.

7. The annexation here involved can be approved only if modifications calculated to neutralize any possible adverse effect upon the political participation of black voters in the City of Richmond are adopted. *City of Petersburg* v. *United States, supra.*

8. To be acceptable any plan for dividing the City of Richmond into nine councilmanic wards should respect the principles of one man, one vote, while eliminating the racially dilutive effect of the annexation to the greatest extent reasonably possible.

9. Other criteria such as neighborhood integrity, compactness, physical boundaries, and even "community of interest" may be considered but only so long as they do not interfere with the overriding objectives of population equality and elimination of dilution of black citizens' votes. *Kirkpatrick* v. *Preisler,* 394 U.S. 526 (1969).

10. The nine ward plan adopted by the City of Richmond, Plaintiff's Exhibit 15, does not eliminate the dilutive effect of the annexation to the greatest extent reasonably possible because the proof shows that the City never made any such attempt and because the City steadfastly ignored indications (*i.e.*, alternative plans prepared by the Crusade for Voters) that a plan could be

prepared which would eliminate the dilutive effect of the annexation to a greater degree. *Kirkpatrick* v. *Preisler,* 394 U.S. 516 (1969).

11. Plaintiffs' case has been limited to proof purporting to show that it was valid or reasonable, to draw a plan using a criterion referred to as "community of interest", and maintaining the James River as an inviolate boundary. Whatever the legitimacy of such criteria when all other things are equal, or when they are considered in a traditional Fourteenth or Fifteenth Amendment case where the burden of proof is on the opponents of a plan, the situation is different in a Voting Right Act case, where the burden of proving non-discrimination is a heavy burden upon the plaintiff. *City of Pitersburg* v. *United States,* 354 F. Supp. 1021, 1027 (D.D.C. 1972). See *Swann* v. *Charlotte-Mecklenburg Co. Bd. of Ed.*, 402 U.S. 1, 28 (1972).

12. In a Voting Rights Act, as in other cases involving racial discrimination, the Court has the obligation of requiring the City to take action which will fully remedy the wrongs. *City of Petersburg* v. *United States, supra.* See *White* v. *Regester,* 37 L. Ed. 2d 314, 324-26 (1973); *Swann, supra,* 402 U.S. at 15; *Taylor* v. *McKeithen,* 407 U.S. 191 (1972).

13. In such a case, the City of Richmond was obligated to show that its chosen criteria are so important that they should outweigh, and justify totally ignoring, the requirement of minimizing dilution of black votes. The Court concludes that the City has not discharged this obligation, for the following reasons among others: (i) the confusing, conflicting testimony about "community of interest"; (ii) the belated emergence of the City's insistence upon maintaining the River as a boundary; (iii)

the failure even to present any proof seeking to show that the City plan would not dilute black votes; and (v) the failure to consider whether an alternate plan (such as the Crusade for Voters plan – Exhibit 21) would involve less dilution.

14. Based on the evidence introduced in this case the Court concludes that a plan which adopts the James River as an inviolable boundary line cannot minimize dilution of the black vote to the greatest extent possible. The insistence of the City upon the River as an immutable boundary on any plan violates its duty to minimize to the greatest extent possible the dilution caused by the annexation. *Davis* v. *Board of School Commissioners,* 402 U.S. 33 (1971); *Megley* v. *School Board of the City of Danville,* F. 2d (CA 4, August 3, 1973); *Hobson* v. *Hansen,* 269 F. Supp. 401, 517 (D.D.C. 1967) appeal dismissed 393 U.S. 801 (1967).

15. To meet its burden of proving non-discriminatory purpose, the City of Richmond must prove that the drawing of its ward plan is free of the taint of the annexation, *i.e.*, that the City, in presenting and insisting upon its ward plan, has no purpose of maintaining white voters' control over a majority of the City Council seats. This burden, which is more acute than in Petersburg (where the annexation itself was concededly non-racial in purpose), has not been met.

16. In determining how well a given districting plan meets necessary criteria, Courts look at possible alternatives, including alternate plans, *White* v. *Weiser,* 37 L. Ed. 2d 335, 343-44 (1973).

17. Crusade Exhibit 21 (Plan R) appears to minimize dilution to a greater extent than the City plan, while

better satisfying the one-man one-vote criterion. The City never explained why it could not minimize dilution to the extent achieved in Crusade Exhibit 21; its challenge to the Crusade plan was limited to presenting testimony tending to show that certain of the ward boundary lines in the Crusade plan were inferior by the criteria of neighborhood integrity and "community of interest." The City has never attempted to determine whether those lines could be adjusted to satisfy those criteria by loosening the population constraints to the level of the City plan. Accordingly, the Court must conclude that, as the proof stands, the City has shown no acceptable reason for failing to minimize dilution to the extent possible, *i.e.*, to the extent achieved by Crusade Exhibit 21. *Kirkpatrick* v. *Preisler,* 394 U.S. 526 (1969).

18. If the City of Richmond were to shift to a ward system of electing its City councilmen pursuant to a ward plan similar or identical to Crusade for Voters Exhibit 21, the impermissible purpose and the dilutive effect of the annexation would be effectively neutralized.

19. The annexation of land from Chesterfield County by the City of Richmond on December 31, 1969, if modified by a nine ward plan similar to Intervenor's Exhibit 21 would not have the purpose or the effect of denying or abridging the right to vote on account of race or color.

20. For the foregoing reasons the declaratory judgment sought by the City is denied.

21. The Defendant United States shall recover from the Plaintiff City of Richmond its costs and the Defend-

ant-Intervenors shall recover from the Plaintiff City of Richmond their costs and reasonable counsel fees.

Dated: November 26, 1973 Respectfully submitted,

CRUSADE FOR VOTERS OF RICHMOND,
et al., Intervenors

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M.Findings of Fact and Conclusions of Law filed with Court below on November 26, 1973, to the Special Master, on behalf of Custis Holt, Sr., *et al.*, Defendant-Intervenors.

[Caption omitted in Printing]

REVISED FINDINGS OF FACT OF CONCLUSIONS OF LAW

1. Statement of Prior Related Litigation to Date

References herein to the transcript of the hearing before the Master, October 15, 1973 through October 17, 1973, are preceded by the letter "H". References to the transcript of Holt I are preceded by the letters "Tr." Where a second reporter transcribed the trial, the pages are not consecutive and these days are preceded by the letters, "B", "C", and "D" for September 24, December 19-20, 1971, respectively. Exhibits from Holt I are styled "Pl. ex. " for Holt and "Def. ex. " for the City of Richmond and are part of the record in this case.

In June, 1969, a Virginia three-judge annexation court adopted a compromise agreement between the governing bodies of the City of Richmond and Chesterfield County, stating:

> ". . . that all terms and conditions specified [in the compromise agreement] should constitute the conditions *verbatim.*" (exphasis supplied) (Def. ex. 20 [a], Tr. 120, Pl. ex. 6).

That a compromise agreement should be entered into was originally suggested and directed by the Court itself. (Def. ex. 20 [a]).

The effect of the compromise was to award approximately 47,262 citizens, of whom only 555 were black, and 23 square miles of territory to the City of Richmond, which became effective January 1, 1970.

Prior to January 1, 1970, the racial composition of the City of Richmond had been 52% black and 48% white. Subsequent to January 1, 1970, the racial composition was exactly as it had been January 1, 1960, i.e. 42% black and 58% white. (Pl. ex. 2).

Course of Proceedings:

On February 24, 1971, Curtis Holt, a Negro citizen of the City of Richmond, filed a class action, naming the City of Richmond, Richmond's City Manager, individual members of City Council, and others as defendants. Subsequent thereto, certain defendants were added or dropped with the end result being a class suit against the City of Richmond, the members of City Council and City Council, and the City Manager of the City of Richmond.

The suit alleged that the aforementioned annexation diluted the vote of the plaintiff class, that dilution was intentional and purposeful, the vehicle used was the aforementioned compromised annexation, and that as such the annexation was invalid as being in contravention of the Constitutionally protected rights of the class and that all elections held subsequent to said annexation were likewise invalid.

The Constitutional infirmity alleged was that the aforesaid actions of the defendants were in violation of

the Fourteenth and Fifteenth Amendments to the Constitution of the United States. No question of the Voting Rights Act was raised.

On May 7th, the U.S. Attorney General objected to the annexation, approval for which had been requested by the City on June 28, 1971, and which application had been objected to by Holt and the Crusade. No further formal action was taken by the Crusade or the Government until their appearance in the instant cause.

On June 1, 1971, Answers to the Complaint were filed and, over the objection of the plaintiff, the preliminary hearing was consolidated with the hearing on the trial on the merits set for September 20, 1971.

Trial on the merits was begun on September 20, 1971, and concluded September 24, 1971. On September 28th findings of fact were announced from the bench. At the conclusion thereof, the defendants moved orally for the taking of additional evidence. Over the objection of the plaintiff on October 12, 1971, the District Court granted said motion and set October 19 and 20, 1971, for the taking of additional evidence on the question of the practicality of de-annexation and other remedies after announcing that the plaintiff class was entitled to relief.

Plans were filed by defendants for remedies other than de-annexation, and argued at the October 19th and 20th hearing.

On November 20th, the District Court filed a Memorandum of its findings of fact and conclusions of law. On November 23, 1971, the Court entered its Order. A stay of the Order was granted by the Fourth Circuit on December 8, 1971. A Petition to Vacate the Stay was filed by Holt with the United States Supreme Court on December 9, 1971, which Petition was subsequently denied.

Also on December 9, 1971, Holt filed an action in the District Court for the Eastern District of Virginia, pursuant to Section 5 of the Voting Rights Act, seeking a judgment that the annexation was without effect for lack of prior approval by the Attorney General or the United States District Court for the District of Columbia. This cause, often referred to by the litigants as Holt II, was filed before a statutory three-judge court. This cause was stayed, pending appeal of the first Holt suit.

On March 15, 1972, Holt filed for an injunction in Holt II against the City to prevent an election for City Council scheduled for May 2, 1972.

On April 4, 1972, the Holt II Court denied the injunction.

Holt immediately filed an application to enjoin the elections before the United States Supreme Court and on April 24, 1972, Chief Justice Burger, with Justices Blackman and Rhenquist concurring, wrote the opinion of the Court granting Holt's application for injunction.

On May 3, 1972, the Fourth Circuit reversed the District Court on the grounds that motive and purpose of legislative bodies could not be examined under a pure Fifteenth Amendment claim, and expressed knowledge of the Holt II case, saying that their opinion in no way applied to the issues surrounding a claim under the Voting Rights Act.

On May 4, 1972, Holt filed a Motion for Summary Judgment in Holt II.

On August 25, 1972, the instant action was filed by the City, five days prior to a scheduled hearing in Holt II. On September 8, 1972, Holt petitioned to intervene in this cause.

On October 11th, Holt again appeared in Holt II to enjoin elections for Constitutional officers and all future elections which Order was granted that day.

On October 17, 1972, the Crusade petitioned to intervene in this cause.

On October 25th, argument was held in Holt II on the Motion for Summary Judgment and on a Motion by the City for a stay pending decision in this cause.

A decision to stay proceedings was entered February 14, 1973, and keeping the Summary Judgment under advisement, pending decision in the instant cause.

2. Findings of Fact

Virginia law makes each city and county separate, distinct, political subdivisions, unlike all other states in the Union. (Memo op P. 2).

The City of Richmond is surrounded by two counties. Henrico County wraps around the City to the North from East to West, while Chesterfield County wraps around the City to the South from the West to East.

It is possible to annex from surrounding counties to enlarge the City of Richmond, without substantially adversely affecting white/black ratios. (Census figures).

There are only two ways for a Viginia city to expand its population other than by birth and immigration. It must seek either to merge with an adjacent county or it must seek to capture that population contained within adjacent geographical areas by way of Virginia's annexation statutes. Va. Code Ann. §15.1032 *et seq.*

The City captured an additional 47,262 citizens (only 555 of whom were black) contained in a 23 square mile area (Pl. ex. 2) when in July 1969 a three-judge state

annexation court approved and adopted verbatim all terms and conditions of a compromise agreement between the City and County of Chesterfield in settlement of the suit by the City against the County. (Tr. 179).

There are fifteen elected officials of the City of Richmond, to-wit: City Treasurer, Commissioner of Revenue, City Sheriff, Attorney for the Commonwealth, Clerk of the Circuit Court, Division I, Clerk of the Circuit Court, Division II, and nine members of City Council. (Stipulation, H 634).

Attempts by the City at Population Expansion:

In 1960, the City of Richmond and County of Henrico entered into negotiations from which evolved a plan of merger of the two political subdivisions. (Tr. 3 P. 364-65).

In seeking support from County leaders, City officials stressed a theme that without merger the City would become a City of old, poor, and black, and laid special emphasis on the problem of the growing black population. (Tr. 236-37.)

The black citizens were specifically concerned with expansion in that it would dilute what little control, influence, and participation they had been able to achieve in the political process. (Tr. 53-4, Memo op. P. 6).

The merger plan was rejected due to a large negative vote in the County by referendum December 12, 1961. (Pl. ex. 4).

In the City, 100% of the black voter precincts voted against the merger, 68% of the racially mixed precincts voted against the merger, and 95.7% of the white precincts voted for the merger. (Tr. 35).

On December 26, 1961, the City exercised its second option to achieve population expansion and adopted ordinances to proceed with annexation suits against Henrico and Chesterfield. (Def. ex. 9 [a] [b]).

The Henrico Annexation Case:

On April 27, 1964, the Henrico Annexation Court awarded the City 45,310 citizens, 98.5% of whom were white. During this time no action was taken to proceed with the Chesterfield annexation case. (Def. ex. 37).

Cities in Virginia may raise monies for operations by the issuance of bonds, and the collection of taxes. Virginia municipal bonds can be of two types, general obligation bonds and revenue bonds. Revenue bonds can only be used for capital improvements which generate revenues such as utility expansions. (Tr.

The Henrico Award required the City to spend $13,490,000.00 over five years on capital improvements and to pay the County the balance of $41,435,000.00 for schools, property and net loss of tax revenue. (Def. Ex. 37). Subsequent to the award, it was discovered that the City Charter did not allow the issuance of general obligation bonds to pay for the costs of annexation. (Tr. B 19-20). Consequently, the City rejected the Henrico annexation award because of the prohibitive cost on March 8, 1965. (Tr. 691, B 12).

Interim Period:

Following the rejection of the Henrico annexation award, City officials contacted officials of Chesterfield County to discuss the dormant Chesterfield case, now

some four years stale, (it having been filed at the same time as the Henrico suit) in order to effect a compromise of the pending suit. (Tr. 92, Tr. 146). The sole basis for negotiation with the County officials was the number of *white citizens* they could expect to receive. A base figure of 44,000 was proposed by the City. (Tr. 151, 152, Tr. 94-95).

These negotiations bore no fruit.

November 5, 1965, the City revived the dormant suit, which was dismissed on March 25, 1966.

The appeal took a leisurely course, consuming 17 months and 14 days, before a decision was handed down by the Supreme Court of Appeals of Virginia on September 8, 1967, revising the dismissal. *(City of Richmond vs. County of Chesterfield,* 208 Va. 278 [1967]).

The parties agreed to a moratorium on proceedings through June 15, 1968, while the Virginia General Assembly was in session.

Trial on the merits was begun September 24, 1968.

Contemporaneous Events During the Interim Period:

There has been a long history of racial segregation and discrimination in the City of Richmond. By various devices in the past, black citizens have been restricted in their ability to participate fully in the political arena by official and unofficial limitations on their voting and political participation. (Tr. 9, 12, 16, 17, 18, 19; Thornton testimony).

Vast changes were being wrought in the voting strength of the black citizens of Richmond during the interim period growing from 4,000 Negro voters in 1956 to 35,000 in 1970. (Tr. 14).

Two political forces began to emerge. Richmond Forward was the white voter organization. The black voter organization was known as the Crusade for Voters. (Tr. 9). Crusade for Voters of Richmond, Virginia, is an unincorporated association composed primarily of black voters, which has been active for two decades in representing and asserting the views of Richmond's black citizens, especially in securing equal voting and other rights (See Tr. 9-11, 20). The 1966 Councilmanic elections were the first held after lifting of the poll tax. (Tr. 25). Voting patterns in the City of Richmond have always followed racial bloc voting and so continue today. (H 544, H 545, H 583, H 584). For the first time two candidates not supported by the white voter organization but by the Crusade for Voters were elected to City Council.

The Richmond Forward organization had an analysis of the black growth made. (Pl. ex. 5a). The rapid and effective growth of the black voting power was known to the white voter organization which conducted surveys and analysis of the 1966 and 1968 elections. (Pl. ex. 5b).

Legislation was introduced in the next legislative session (1968) to force merger of Richmond, Henrico and Chesterfield by the formation of a commission later known as the Aldhizer Commission. (Tr. 663, 209, 223).

This commission considered its role that of preventing Richmond from becoming black controlled by increasing the number of white voters in the City through forced merger. (Tr. 221, 212, 214, 217, 218, 220, 221, 223.)

Just prior to he first meeting of the commission the 1968 Councilmanic elections were held and the black citizens again increased their representation, this time to three members. (P. ex. 39: Tr. 210).

City officials urged merger of Chesterfield and the surrounding counties through the commission, expressing fear of a black takeover by at least the next Councilmanic election scheduled for 1970. (Tr. 21, 213, 216, 223).

The First Chesterfield Trial on the Merits:

During the summer of 1968, the annexation court suggested to he parties that they compromise the case by settlement agreement. (Tr. 612, 614).

Meetings had been continuing on an irregular basis since 1965 for this purpose. In all meetings, the City maintained a consistent position that required all negotiations to center and be concerned with the number of people that the City would receive by settlement. All economic, geographical and other considerations were simply not discussed or were brushed aside. In the words of the City Manager, the City had to "balance the population." The acceptable minimum number remained relatively constant at 44,000 people. The City was careful to ascertain from the County racial percentage figures in its negotiations. The meetings bore little fruition. (Tr. 92-112; 146-179; 584).

On January 9, 1969, the presiding judge declared a mistrial and disqualified himself. (Tr. 111).

Events Between the First and Second Trial:

Shortly after the mistrial, a special session of the Virginia Legislature met to draft and adopt a new constitution for the State. The Aldhizer Commission introduced a bill commonly referred to as the Aldhizer Amendment creating a third and new method of increas-

ing the population of the City. The Amendment would allow the state legislature to expand Richmond every ten years. (Tr. 117). Also passed during this legislature was a bill amending the City Charter of Richmond to allow general obligation bonds to be used to pay for costs of annexation. (Tr. 40, 42, 64-66).

City officials lobbied extensively for the Constitutional Amendment on the ground that should the Amendment fail, the City would go black, i.e., the plaintiff class would elect sufficient representatives to control the City by at least the next election scheduled for June of 1970. (Tr. 222, 223, 143).

The Aldhizer Amendment passed but had to be passed again at the next session (1970) before becoming law. (Tr. 223).

Subsequent to its passage, negotiations resumed between the heads of the Richmond City government and the Chesterfield County government to seek a compromise and the negotiations continued into the second trial on the merits.

No line was actually drawn until the Mayor of the City, Mr. Bagley, had assurances that at least 44,000 white people would be given up by the County. On May 15, 1969, Mr. Bagley and Mr. Horner, chairman of the County Board of Supervisors, drew a line (called the Horner-Bagley Line) which encompassed the required number of people. (Tr. 120, 174.)

At the time the agreement was formalized, the City Council and the Mayor had no information by which they could evaluate in any respect a compromise line agreement, other than its size and the number of people it contained. (Tr. 119, 120, 172, 178, 194, 234, 319-21, 356, 428, 445, 524, 575, 577, 581, 582, 584, 585-86,

710, 711; B 148, 155, 156, Pl. ex. 13 and 15; Memo op P. 11).

Mr. Talcott, the City Boundary Expansion Co-ordinator who gathered and had available all information concerning vacant land, economics, tax, schools, utilities, etc., was not consulted for any information whatsoever concerning a compromise by either the Mayor, the City Council, or the attorneys in the suit, until after the compromise had been reached. In fact, Mr. Talcott was not even aware such a compromise had been reached until some eleven days after the fact. (Tr. 436).

A former councilman, knowledgeable in City affairs, head of a leading regional financial firm intimately connected with municipal finances, and who had participated in almost all compromise negotiations prior to formulating the Horner-Bagley Line, argued strenuously against the agreement on the grounds that the agreement gave the city no vacant land and nothing but people. (Tr. 34, et seq.).

The Compromise Annexed Area Is and Economic Loss to the City

The area itself contained almost exclusively, developed, residential land, without any appreciable business or industrial expansion room, immense utility problems, requiring costly outlays (28.3 million dollars over five years) (H 695), and otherwise did not improve the expansion or economic position of the City. *Only 6 1/4% of the total land in the compromise area could be developed.* (H 693). The rest was either swamp, land fill or economically unsuitable. (H 692) (City ex. 16). As Judge Butzner of the Fourth Circuit stated:

> ". . . the description of the annexed area, especially its paucity of vacant commercial and industrial land for expansion, supports the District Judge's finding that the compromise was a 'purposeful devide to further racial discrimination'."

Not only did the physical property received fail to solve any of the needs cited by the City as a basis for annexation, the compromise (by the City's own figures) (See Interrogatories to City, this cause, [H 690]) was and remains an economic loss to he City. The per capita cost of government is $531 (H 693). Multiplied by the 50,000 present inhabitants (H 693) of the area, it costs the City 26.5 million dollars to govern the annexed area; not including the capital outlays of 5.66 million dollars per year over a five year period, for a grand total of 32.16 million dollars a year. In the same area the former City Manager, Mr. Kiepper, estimated total revenues of 14.5 million dollars for 1971-72 (H 694). The total *loss would thus equal 17.66 million dollars per year.*

The City has actually spent only 7 million dollars in 2 1/2 years of the 28.3 million dollars ordered spent on capital outlay, (H 695) or roughly three million dollars a year. The County received 2 3/4 million dollars in taxes from the area in 1969. The City financial report put the figure at 7 million dollars (H 694). Real estate is one-third of the total revenues, or 21 million dollars in revenues from the area as opposed to the City Manager's estimate of 14.5 million dollars. Add the reduced capital outlay of 3 million dollars to the costs of government at 26.5 million dollars and the most conservative cost is 29.5 million dollars, against the most generous revenue of 21 million dollars. Still, this results in *an annual loss of 8.5 million dollars per year.* (H 694).

The Appeal Problem

At all times, and in all such meetings leading to the compromise, the Mayor was in constant contact with the six Richmond Forward Councilmen for authority. City representatives, however, systematically exluded at all meetings and conferences all council representatives of the black citizens, who knew nothing of the compromise, nor of the policy questions involving it, nor the Aldhizer Amendment until after they became public knowledge. The exclusion continued through the trial of Holt I to the extent that even the attorneys for the City failed to consult or advise them on any facets of the respective cases. (Tr. 64-68, 69-71, 81, 102, 215-216, 226, 227, 241, 350, 353, 423, 424, 433-35, 563, 567, 570-72, 611-14, 619-21, B 39, Memo op. P. 8).

Time was now of the essence. (Tr. 110-111, Memo op. P. 11). Under Virginia Appeal procedure, appeals have four months in which to be filed and normal procedures required a total of five months before the appeals court would be in a position to decide if it would hear the appeal. (Rule of Supreme Court of Appeals, Rule 5:4, Va. Code § § 8-475 & 8-463). If a Court decision was not reached by July, the appeal could well run into 1970 on procedural steps alone, before a decision of any sort could be rendered. The trial was still proceeding and all parties agreed it would be the end of June before the parties rested, with the intervenors yet to be heard.

In Virginia, annexations can only take effect on the first day of each year. If delayed, the annexation would not become effective until after the next scheduled election in 1970. (Tr. 649-50; Memo op. P. 9).

White representatives were fearful that should they lose control of Council, a black controlled council would drop the case, or refuse to accept the award of the Court or the compromise. (Tr. 23, 25-26).

Accordingly, on June 11, 1969, Mr. Bagley and his attorney, Mr. Davenport, met with Mr. Horner and his attorney, Mr. Thornton, to firm up the agreement, for the expressed purpose of assuring the annexation took effect January 1, 1970, so that the newly acquired white citizens could vote and protect white control of the next scheduled election for City Council set for June 1970. (Tr. 172-179).

It is significant to note that as early as August of 1971, Attorneys for the City, Edwards, Mattox, and Davenport, knew of the testimony surrounding the compromise and the Aldhizer hearings and the part they played in them. Yet these key witnesses, whose involvement traces from the very beginning, have remained in the Courtroom in Holt I and II and the instant cause and failed to offer themselves as witnesses at any point to rebut or contradict this evidence, when they, of all parties could have been expected to produce the least self-serving testimony, and today remain so cloaked in silence.

The testimony of some members of Council that they were not aware of the "no-appeal clause", nor of the political realities which demanded it, is simply not supported by the record and is obviously not credible in the record or consistent with their positions or their prior activities. (Tr. 649, 650; B 182-83; Memo op. P. 10).

The Decision

The second annexation trial had begun the same day the Horner-Bagley Line was agreed upon, May 15, 1969.

The Court itself had allowed racial testimony and was aware of the City's fear of a growing black population (136-138, Tr. 642-43), as evidenced in its opinion when it stated: "Obviously cities must in some manner be permitted to grow . . . in population or they will face disastrous social problems." (Def. ex. 20 [a]).

The Court also recognized that it "exercises not only judicial, but also some legislative functions." (Def. ex. 20 [a]). The Court noted that compromise was unprecedented in an annexation suit and stated that it was not bound by such legally, but was so bound in practice when it said:

> "After mature consideration, we feel that the agreement is entitled to great weight. It must be remembered that the parties to the agreement perform the legislative functions of their governments as duly elected representatives for the people. When they decide that their constituents are benefiting by an action, such a decision should not be treated lightly . . . The acquisition of . . . some 43,000 people would solve many of the City's problems both now and for some time to come . . . In sum, we believe that the boundary line set forth in the agreement should be the annexation line and that all terms and conditions specified should constitute the conditions of annexation *verbatim*, and we so adjudge and decide." (emphasis added).

Thirteen days prior, the Court had agreed to the compromise in a secret conference, saying, "let us hear the protestors [intervenors] and then you can tell us what your agreemen^ is and *we can make our decision accordingly*, and in that way the intervenors won't feel like they have been kicked around or left out . . . " (Def. ex. 20 [a] P. 3234-20).

A secret meeting where the Court itself recognized the impropriety of what it was doing when it said, "I just don't want the press getting hold of what we have been talking about in here because the whole thing will just – it would be wrong." (at P. 3234-19 Annexation transcript).

The Appeal:

The notice of appeal was filed by the intervenors on the last permissible day, September 10, 1969. (Def. ex. 24). The Petition for a writ of error was filed five days before the last deadline on November 7, 1969. The City's brief in opposition was filed on November 12, 1969, the reply brief on November 20, 1969, a Thursday. The next day counsel were notified to argue the following Monday afternoon on November 24th. The Court denied the Petition on November 26, 1969.

A stay was filed for by the appellants on December 19, 1969, and denied that same day. An application for a stay was then made to the United States Supreme Court which was denied by Mr. Justice Douglas on December 31, 1969.

The following day, January 1, 1970, the Annexation took effect.

The Next Election:

On June 10, 1970, a Councilmanic election was held which included the newly annexed voters. The black citizens elected three representatives. Had the annexed votes not been counted, four representatives of the black citizens would have been elected giving them fiscal

control of the City Council (appropriation measures must be approved by at least six votes). (Tr. 27, 78-79; Memo op P. 9).

3. Findings of Fact in Holt I

The Court below made many findings which were based on totally uncontradicted evidence in the trial by the City of Richmond and which remain uncontradicted today.

a. In 1961, an unsuccessful attempt was made to merge the city and the county of Henrico . . : (Tr. 366 uncontradicted). The negro votes were opposed to any merger or annexation, obviously recognizing the consequential dilution of their anticipated emerging solidarity of voting strength. (Tr. 35, P. 4, 53-54, 40, 42, 238, 338-339).

b. The Negro citizen was (in 1960) hampered by restrictive laws and conditions . . . which were . . . effective impediments to fully exercising and utilizing rights accorded all citizens under the Constitution of the United States. (Tr. 12, 16, 17, 18, 19) (memo op. P. 2).

c. The City's suit against Henrico was finally culminated some three years later (March 1965) by rejection by the City . . . of the Court's award . . . [of approximately 45,000 people, the overwhelming majority of whom were white] . . . (Tr. 634, 691, Def. ex. 37). (Memo op. P. 3).

d. The period ensuing from the date of the filing of the original annexation suits against the countries had brought vast changes in the voting strength of the Negro community (Tr. 23-32, 36). The poll tax had been removed as a requisite to voting, (Tr. 21) and much

encouragement had been accorded the Negros to exercise their right of franchise – the evidence shows an increase in Negro voting strength. (Pl. ex. 5 [a] [b], 3 [a-n]) (Memo op. P. 3).

e. The early and middle 1960's brought with them two emerging political forces in the City . . . Richmond Forward [was] a predominantly white organization . . . (Tr. 25). The Crusade for Voters . . . encouraged and assisted qualification of Negro votes and . . . did and do endorse certain announced candidates. (Tr. 10, 11, 228, 333, 338, 395, 559 – Pl. ex. [a] [b], 3 [a-n]) (Memo op. P. 3).

f. The record abounds with evidence pointing to a dramatic awareness, certainly by 1968, (Tr. 22, 47, 48, 334) by any reasonably knowledgeable person, of the increasing political effectiveness of the Crusade. (Pl. ex. [a] - [n], Tr. 42-44, 23-32, 334, B 22-23, 690 - Pl. ex. 5 [a] [b]) (Memo op. P. 4).

g. The annexation of a part of Chesterfield County, which came to pass January 1, 1970 . . . resulted in a dilution of the Negro vote . . . (Memo op. P. 4).

h. During the pendency of the lawsuits versus Henrico and Chesterfield efforts were made to effectuate a compromise agreement. (Pl. ex. 32) (Memo op. P.4). (The record is too replete to list all record references.)

i. City Council's make-up took some changes, and by 1968 there were three members who were not in sympathy with the views of the other six majority members in reference to boundary expansion. The views of the three minority members, one of whom was a Negro, were generally considered by the majority to be representative of the views of the Negro community. (See all cities in #25) (Memo op. P. 6-7).

j. In the meetings between City and County representatives between 1965 and the culmination of the Chesterfield suit, the racial make-up of the population which the City was to receive was discussed. (Tr. 94, 95, 98-99, 100, 102, 103, 125, 151, 152, 171, 198, B 152-158, 598, 599, 600, 605, Pl. ex. 11, 12, 27, 28, 32) (Memo op. P. 7).

k. Much of the expressed general concern as well as other more specific statements of at least certain city officials was inspired by a fear of a shift of control of the City's legislative body to members of the Negro race or those supported by the Negro voters. (Tr. 98, 95, 115, 126, 143, 152, 163, 164, 165, 220-221, 240-41, 245, 249, 250, 251, 256, 257, 274, 296, 347-48, 690, 717, Pl. ex. 32) (Memo op. P. 7).

l. By 1968 the Legislature, primarily at the behest of the City, created a commission to study and recommend ways of alleviating . . . the city's pronounced need for expansion. (Tr. 80, 139-40, 162-63, 209, 210, 663, 668, 680, 681, 682, 690, 169). The evidence before the Court shows a concern not only of officials of the City and County, but of State officials as well, that the City of Richmond not become a City of the old, the poor, and the black. (Tr. 637, 638-41, 643, 646, 647) (Memo op. P. 7).

m. City officials expressed to at least two of the members of the State appointed commission . . . that with the ever increasing Negro population of the City that one of the issues was who would govern the City. (Tr. 115, 143, 210, 211, 212, 213, 219, 220, 221, 240-241, 245, 681, 682-87, 690). (Memo op. P. 7-8).

n. The evidence is uncontradicted that one of the city officials designated to encourage state action to expand

the city's boundaries asserted as one need for prompt action on the part of the State Legislature that the 1970 Councilmanic elections were approaching, and expressed a fear of the Negroes prevailing. (Tr. 110, 111, 164, 143, 210, 211, 212, 213, 219, 220-21, 308-304, 312, 643, B 185, 186, 668, 675, 681-87, 690, 604, 622, 623, 625, 629, 635, 673, Pl. ex. 14, 25, 24) (Memo op. P. 8).

o. The majority felt it necessary to exclude at least three members of Council from participating in certain discussions concerning this particular phase of the City's business [boundary expansion]. (Tr. 64-68, 69-71, 81, 102, 215-216, 226, 227, 229, 241, 350, 353, 423, 424, 433-35, B 39, 563, 567, 570-72, 611-614, 619-621) (Memo op. P. 9).

p. By 1969, the Negro vote in the City was beyond question a powerful influence. The legislative body of the City, while bound generally by a majority vote of its members, required in some instances a two-third vote for passage of certain matters. (Tr. 27, 78-79) (Memo op. P. 9).

q. Any delay which would result in a failure to implement any annexation decree by January 1, 1970, would result in at least another year's further frustration, since Virginia law makes all annexation decrees effective on January 1. (Tr. 649-650) (Memo op. P. 9).

r. An appeal by Chesterfield of the anticipated decree would obviously have precluded any dilution of the Negro voting power long enough for it to vitally effect the Councilmanic election of 1970. (B 182-83, Tr. 649, 650, see finding 22) (Memo op. P. 9).

s. At least one of the factors leading to the City's acquiesence to the compromise was a motivation to thwart any potential threat created by the rapidly

growing voting strength of the Negro segment of the polulation. (Tr. 40, 42, 53-54, 67-69, 78, 347-48, 450, B 23, 26, Tr. 580, 625) (Memo op. P. 10).

t. A polarization of the two major political factors in city elections was emerging. To suggest that such political polarization of the racially different groups was not a factor considered by elected officials whose election could to a reasonable degree be attributed to the respective organizations is to ignore the obvious. (Pl. ex. 5 [a] [b], Tr. 26-34, 332, 333, 394, B 61, 91, Pl. ex. 3 [d]-[n]) (Memo op. P. 10).

u. The parties to the annexation suit had been encouraged by the Court to explore the possibility of an amicable adjustment of the pending matter. (Tr. 96, 106, 122, 313, 544, 612, 614) (Memo op. P. 11).

v. Timing, however, was of the essence to the City by 1969. (Tr. B 182-183, see findings 22, 23, 30, 31) (Memo op P. 11)

w. While the Mayor had some general knowledge of the areas and population . . . he did not have the detailed information required to effectively evaluate any tentatively agreed upon line except for the size of the area and the fact that there was a sufficient number of white population which could reasonably be expected to dilute the potential Negro vote so as to preclude legislative control by that segment of the population in 1970. (Tr. 119, 120, 172, 175, 178, 194, 234, 319-321, 356, 428, 445, 524, 575, 577, 581, 582, 584, 585-87, 710, 711, B 148, B 155, B 156, Pl. ex. 13, 15) (Memo op. P. 11).

x. Timing of the compromise was tied to the immediate future political and racial control of the city's legislative body. (B 34-39, see findings 29-31) (Memo op. P. 12). As part of the compromise agreement, it was

understood that Chesterfield would not appeal the annexation decree, embodying the compromise agreement, and efforts to discourage appeals by intervenors would be made by the Chesterfield Board. The foregoing understanding was in order to assure an unquestioned white majority for the upcoming Councilmanic elections . . . [by permitting] the annexation to become effective at a time so as to deliberately dilute plaintiff's class vote for the Councilmanic election of 1970 . . . (Tr. 110, 111, 119, 178, 194, 324, 581, 582, 584, 585-87, 630, 631, 640-41, 650, Pl. ex. 26) (Memo op. P. 12).

y. Only the presence of Negro voting power, which was on the verge of expressing itself sufficiently as to threaten the election of whites in the upcoming councilmanic elections and which voting power the officials wished to impede solely because of race, prompted the city to agree to accept less territory and less tax producing properties than the city officials believed they would acquire by way of an uncompromised lawsuit. (Tr. 230, B 36, 38) (Memo op. P. 13).

z. That portion of it [compromise] having to do with agreement not to appeal, was conceived and operated as a purposeful device to further racial discrimination by way of diluting the vote of the Negro, and this is constitutionally impermissible. (Tr. 230, 257, B 168, 630, see entire record) (Memo op. P. 14).

4. The Remedies

The Inadequacies of Ward Plans a a Remedy

The testimony elicited in the October 15-17 hearing by the City and the Crusade establishes that their respective

ward plans are unreasonable and ineffective to cure dilution and incapable of curing the impermissible motive or purpose.

The City's Ward Plan is further unreasonable in that it is designed as a temporary remedy until such time as Section 5 of the Voting Rights Act expires. A referendum held under the diluted at-large system would be held in order to allow the abandonment of the ward system. (H 184, Holt ex. 1).

The record amply demonstrates that the City's own Ward Plan (City ex. 15) does great violence to its self chosen criteria of boundaries, neighborhoods, etc. (H 144, 150, 158, 159, 174-177, 492, 496-97, 505).

The City Plan reflects no political considerations. (H 433). The communities of interest are defined by the City as being concerns with facilities and services (H 429) or that needs-services are another way of saying income, black areas, racial. (H 433). To draw voter districts, these need-services would be the issues motivating voters and yet the City Plan was not drawn with these considerations. (H 483, 485, 489, 490).

The City Plan had as one of its basic sources of creation, a desire to avoid de-annexation. (H 186).

In the context of past discrimination and the invidious racial motivation, neither City or Crusade Plan, as required by the Voting Rights Act, cures the impermissible purpose.

Nowhere in the record is there any explanation or supportive evidence to show how purpose is cured or even affected. The ward plans leave unresolved the dilution itself without reaching the impermissible motive.

In that by their own terms, the ward plans leave unchanged the dilution in any substantial degree (Crusade) or merely make the dilution worse (City), they are ineffective. In that they do not reflect logical and generally acceptable criteria, they are unreasonable. In that they leave untouched the question of motive/purpose, they are both ineffective and unreasonable.

The City's Ward Plan does not cure any of the dilutive effects of the annexation, but rather focuses that dilution in the "swing" ward (the four black and four white wards cancelling each other out) (H 613), Ward H.

Thus the fight for political control centers in Ward H. The racial percentages in Ward H on a general population basis are 59.1% white and 40.9% black. (H 615) (City ex. 15-19). Prior to annexation the percentages were 52% black and 48% white. After annexation, the black percentage was diluted by 10 percentage points to 42% black. The City Ward Plan thus dilutes even more than the annexation itself. (H 616)

The Crusade's political expert showed an even greater dilution by analyzing the white-black percentages in Ward H for voting age population. There the black percentage was 38.5% or 13.5 points below the pre-annexation percentage. (H 616).

The net effect then under the City's Ward Plan is to reflect even greater dilution than that caused by the annexation itself.

The Crusade's Ward Plan fails to reflect any appreciation of geographical, historical or social considerations. (H 706-710 Howe Todd). The Crusade's Plans further fail to cure the dilutive effect when judged by their own political expert. Vice Mayor Marsh stated a plan would have to show five black wards to effect a satisfactory resolution (H 618). He later admitted the Crusade Plan

would not assure five black wards, (H 621) and in the alternative, he would perfer de-annexation.

Five black wards tend to disenfranchise white voters. (H 610).

Criteria chosen by both the City and Crusade are subject to constant change (H 593), requiring continual and burdensome adjustment. (H 593).

De-annexation – Effective and Reasonable Remedy

Where the cause of dilution was a boundary expansion adding 47,000 white people to the general population, the most effective cure of the dilution is to remove the cause itself, i.e., exclude the 47,000 people from the general population. Outside the single issue of reasonableness, no party disputes that this is the most effective means of curing the dilution. (H 190, 506, 507, 618).

Where a boundary expansion was initiated and carried out as a purposeful device of racial disenfranchisement, any measure of relief which rewards the invidious purpose is by definition ineffective.

Contraction of the impermissibly expanded boundaries to their prior limits leaves no reward to the racially motivated expanders.

Thus a return to prior boundaries effects the most effective cure to dilution and the *only* cure to racial motive. Further, such a measure remains consistent with the intended effect of Section 5 of the Voting Rights Act to prohibit expansions *unless* free of impermissible effect and impermissible motive.

Contraction of the City boundaries to pre-annexation limits is not a voyage upon unchartered seas. It is a familiar concept to the parties in general and to Chesterfield County and Richmond in particular. Chesterfield has undergone several boundary contractions, i.e., de-annexations, in recent years, the latest involving the same territory which is the subject matter of this dispute. (H 675). The County Administrator, for 25 years, qualified as an expert in local government, (H 673 et seq.) and in the mechanical boundary contraction. (H 675, 679, 680). His testimony went unrebutted and uncontradicted.

To be reasonable, boundary contraction must lend itself to speedy determination of the financial equities, administrative methodology of transfer and nonburdensome workable resolution of disputes which could arise. It took two weeks for the parties to determine the financial equities in the original City expansion-County contraction (H 687). It would take no longer than thirty days to again determine the financial equities administrative methodology of transfer and effectuate full transfer of governmental services. (H 683, 684, 687). The state annexation court remains in session under state law to act as arbitor for the resolution of any issues which would arise from the annexation, and is, therefore, the proper arbitor for resolution of any issues arising out of the boundary contraction. Being existent, local operative machinery, its utilization would be nonburdensome.

To be reasonable, there must be no disruption of governmental services, requiring, therefore, a corresponding ability of the County to assume these services financially and administratively. Chesterfield County has 18 million dollars in the bank, pursuant to a recent sewer bond sale, 10-12 million dollars due from the State Water Control Board, 4-5 million dollars in the water fund, 1 million dollars of uncommitted revenue sharing, 12.7 million dollars of authorized school bond issue, and a

normal bank balance of 20 million dollars at all times. (H 688-689). All Chesterfield capital outlays with the exception of schools and utilities are paid from current revenue (H 689). Bonds issued by the City for capital outlays could be assumed by the County. (H 689). The City has spent only 7 million dollars in capital outlays in 2 1/2 years (H 695). The County possesses sufficient financial ability to reassume control. Administratively, the County is amply prepared to assume all services: the county school system is innovative, advanced and capable of reabsorbing the children (H 682); the County would have no problem utilizing the City constructed fire stations, and has just expanded its fire department in personnel and equipment (H 682). The City uses a different hose connection thread than the rest of the County, but converters could be carried on trucks until the threads were replaced. (H 686-87). The County Police Department has a waiting list and sufficient manpower with initial overtime scheduling to provide protection during its expansion (H 683). The garbage and trash collection is handled now by the same private contractor previously contracted by the County and would continue after transfer (H 684). The County has a better water supply than the City and could use almost every waterline installed by the City (H 685-86). The County can use every foot of sewer line installed by the City; most of the sewer lines installed by the City were on County developed plans (H 686). The records of utilities, assessments, taxes, etc. of the area are computerized and can easily meld from the City to the County computer, while continuing normal governmental functions (H 685). The County has doubled the size of its jail, increased the mental health program and would experience no diffi-

culty in the administration of jails, courts, probation, mental health, welfare or solial services in the event of transfer. (H 691). Chesterfield County is willing to reassume governmental control over the subject area. (H 697, Pl. ex. 37, Holt ex. 2).

To be reasonable, there must be no substantial economic deprivation to the City and no corresponding unjust enrichment to the County. The County does not expect to be enriched by an order of de-annexation. (H 682). The City has spent only 7 million dollars in the annexed area to date, with 21.3 million which must be spent within the next 2 1/2 years, (H 695) and has an *annual net* financial loss of 8.5 million dollars to 17.66 million dollars from the area. (H 694-95). Of the total land received in the annexation, only 6 1/4% is vacant land even capable of development. (H 693). The return of the area would thus save the City at least 8.5 million dollars per year of operating loss, 21.3 million dollars of required capital outlay, and would realize bond assumptions and cash reimbursements in excess of 7 million dollars. In light of the inconsequential growth potential of the area, the City would economically benefit by a return of the area to the county.

In the context of the Voting Rights Act, the black Vice Mayor of the City of Richmond and member of the Crusade had these observations when questioned by the Court about the problems of a de-annexation:

> " . . . I think that these inconveniences and these other things [losing land, tax, schools] should not be permitted to overcome the Voting Rights under the Constitution . . . I think that *having a territory in the city would not help the city that much,* if the priorities of the city are not based properly in

satisfying the substance of the Voting Rights Act. [emphasis supplied].

I think that *having extra territory* with the priorities fixed as they were in the past, *would not be in the interest of the black person.* [emphasis supplied] (H 619-20).

Contraction of the City boundaries, i.e. de-annexation, is a reasonable remedy and a remedy which will effectively cure the dilution and furthermore cure the impermissible racial motive of the boundary expansion.

CONCLUSIONS OF LAW

1. That 42 USC §1973c is the statute conferring jurisdiction upon this Court.

2. That §5 of the Voting Rights Act requires that a state or a political subdivision thereof may not put into effect in any way any change in voting qualifications or standards, practices, or procedures until it procures a declaratory judgment from the United States District Court for the District of Columbia that that proposed change does not have the purpose or effect of diluting the black citizens' vote.

3. Boundary expansions are changes in voting qualifications, standards, practices or procedures as contemplated under 42 USC §1973c. The change before the Court is an annexation and falls within the scope of §5, *Perkins* v. *Matthews* 400 U.S. 379 (1971). *Petersburg* v. *U.S.*, et al., U.S.D.C., (DC) #509-72, affirmed U.S. Sup. Ct. Nos. 72-865, 72-1215, 72-1594 (1973).

4. That a presumption of illegality relative to all changes in covered states exists, and, as such, "freezes the election laws", *Georgia* v. *U.S.*, 93 S. Ct. 1702 (May 7, 1973) until a clear showing by a preponderance of the evidence that burden has been overcome.

5. That the sought-after change carries a presumption of illegality and cannot be enforced in any degree or manner was established in *Allen* v. *State Board of Elections,* 393 U.S. 544, reiterated in *Perkins,* and most recently in *Georgia* v. *United States,* 93 S. Ct. 1702 (May 7, 1973):

> ". . . a State covered . . . *can in no way* amend its . . . laws relating to voting without first trying to persuade the . . . District Court . . . 383 U.S. at 356 (Concurring and ddissenting)" 93 S. Ct. 1702 at 1707.

6. The plaintiff, City of Richmond, seeks a declaratory judgment from this Court and therefore, carries a burden (placed upon it by the Act) of proving by a preponderance of the evidence that its annexation does not have the discriminatory effect and purpose aforementioned.

Specifically, the burden which must be carried by the City requires that the City prove the annexation:

(1) Did not have the *purpose* of denying or abridging the right to vote on account of race or color, *and*

(2) did not have the *effect* of denying or abridging the right to vote on account of race or color. *Petersburg,* supra.

7. Indeed, where boundary expansions are operated as a purposeful device to dilute the power of the black vote, they are subject to being absolutely prohibited as a violation of the Voting Rights Act of 1965.

8. The plaintiff City bears the burden of proof in demonstrating that its belatedly proposed remedy of a

ward plan more nearly eliminates the dilutive effect and purpose of the boundary expansion to the greatest extent reasonably possible than did the remedies proposed by the vigorous intervenors.

9. *City of Petersburg* v. *United States*, 351 F. Supp. 1021 (1972) stands for the proposition that a boundary expansion that is benignly conceived, concededly economically beneficial and desired by the overwhelming majority of a municipality's citizens may stand if the dilutive effect of that expansion is eliminated to the greatest extent reasonably possible.

10. Where the overwhelming evidence indicates, however, that the boundary expansion was not benignly motivated, where the economic benefits of the expansion are at best highly questionable and were not paramount in the minds of those who sought the expansion and where the great majority of the black voters have opposed that expansion, stronger measures to eliminate the dilutive effect of that expansion are mandated. Not only are stronger measures to cure the dilutive effect mandated, the Court must also deal effectively with the presence of the invidious motive for expansion.

11. The remedy appropriate to a benignly conceived and non-racially motivated boundary expansion, such as was adopted in *City of Petersburg* v. *United States*, 354 F. Supp. 1021 (1972) may not be appropriate to a boundary expansion which was conceived and executed as a deliberate and purposeful device to dilute the Negro vote, and this is especially true where another more effective remedy is reasonable, practicable and available.

12. In appraising the reasonableness of a remedy for vote dilution by boundary expansion, the presence of invidious purpose leading up to that expansion is highly

significant and, in the absence of compelling circumstances to the contrary, requires adoption of the most effective remedy even though this entails return of the captured territory.

13. The lapse of time from the boundary expansion until submission of that boundary expansion under the Act entitles the plaintiff to no special consideration in this case since the boundary expansion should not have been enforced until the aforementioned proofs had been made before this Court. *Georgia* v. *U.S.*, 93 S. Ct. 1702 (May 7, 1973).

14. The Mayor's admitted suggestion of a means of returning to the use of at-large elections upon expiration of §5 of the Voting Rights Act, suggests that there has been little growth in the sensitivity of the City's white political leadership to the integrity of the black citizens' right of franchise and requires that a remedy proposed by that leadership receive careful scrutiny.

15. A contempt for the integrity of the Voting Rights Act and the Court whose duty it is to uphold that Act would necessarily result from the adoption of a remedy for racially motivated vote dilution, if the circumvention of that particular remedy has been conceived and anticipated by the plaintiff City's white political power structure.

16. The remedy suggested in a case arising under the Voting Rights Act must be examined not only for its efficacy in meeting the present problem, but also with an eye toward preventing future such depredations by removing all possible reward for invidious motivation.

17. But for Justice Department's lack of zeal and belated entrance into this matter, its opinion would be entitled to weight. The record indicates an appalling

default on the Government's part in enforcing Section 5 of the Voting Rights Act, until prodded into some belated form of action by the Intervenors, Holt, et al., who have been forced to function as private attorneys general in this cause.

18. It would be naive in the extreme for this Court to view the dilutive effect of the boundary expansion as sufficiently remedial merely because the plaintiff City's ward plan concentrates the effects of that dilution in one "swing" ward.

19. The plaintiff City of Richmond has failed to meet its burden by demonstrating that its boundary expansion does not have the purpose or the effect of diluting the black vote. Nor has the City met its burden of demonstrating that its proposed ward plan rehabilitates or elevates the racially motivated and dilutive expansion to the standards of the Act and law which require that the most effective measure be implemented to eliminate both the purpose and the effect to the greatest extent reasonably possible.

20. The failure of the plaintiff City of Richmond to introduce any evidence tending to rebut the testimony of the Defendant Intervenor Holt's expert on local government concerning the effects and ease of de-annexation, compels the conclusion that it was unable to rebut such testimony.

21. The evidence in this record indicates that fear of de-annexation as a "mind-boggling" undertaking is a long maintained, but totally unsupported shibboleth.

22. The unrebutted and cogent evidence of the Defendant-Intervenor Holt is that de-annexation would be effective to cure both the impermissible purpose and effect of the boundary expansion and is both economi-

cally sound and wholly practicable. The Court cannot reject such uncontradicted evidence.

23. Partial relief as granted in *Petersburg* involved a benign annexation, transgressing upon the Act in effect alone. Partial relief in this case would cause inestimable damage to the Voting Rights Act by perpetuating a wrong of immense proportions on the City's black citizens without the slightest corresponding benefit to the City as a whole.

Where wrongdoing of this magnitude exists, the only effective relief is a vigorous application of the Congressional intent by serving notice that such future actions cannot be tolerated. The only effective remedy is to deny the Declaratory Judgment, enjoin the City from enforcing this annexation, and order elections to be held at the earliest reasonable date without the participation of the diluting annexed votes.

[Signature and Certificate of Service Omitted in Printing]

N. Joint Stipulation By All Counsel that the Record of *Holt I* be Received in the Instant Case.

[Caption omitted in printing]

STIPULATION

It is hereby stipulated between the parties to this case that the testimony and exhibits taken and introduced in the trial of *Curtis Holt, Sr.* v. *City of Richmond, et al.*, E.D.Va., Civil Action No. 151-71-R starting September 20, 1971, may be received and considered as testimony and exhibits in the trial of this case.

It is further stipulated that none of the parties, in making this stipulation, adopts any of the witnesses as its or his own witness.

It is further stipulated that none of the parties, in making this stipulation, waives the right to call additional persons as witnesses or to call as witnesses those persons who testified in the trial of *Curtis Holt, Sr.* v. *City of Richmond, et al.*, E.D.Va., Civil Action No. 151-71-R.

[Signatures omitted in printing]

ORDER

IT IS SO ORDERED.

/s/
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT JUDGE

O. Joint Stipulation By All Counsel as to Other Elected Officials of Richmond.

[Caption omitted in printing]

STIPULATION

The parties to this action stipulate as follows:

1. The following facts are admitted by all parties and shall be taken as true for the purposes of this action: That there are fifteen (15) elected officials in the City of Richmond, nine (9) of whom are members of City Council; the other six (6) are elected at-large and are as follows: Sheriff, Commonwealth's Attorney, City Treasurer, Commissioner of the Revenue, Clerk of the Circuit Court of the City of Richmond, Division I, and Clerk of the Circuit Court of the City of Richmond, Division II. No evidence of said facts other than this stipulation need be adduced upon the trial.

[Signatures omitted in printing]